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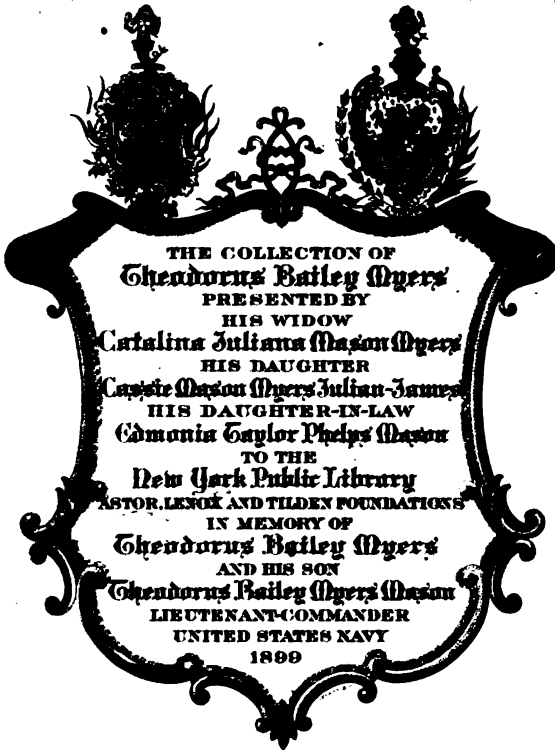
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532



12

STATE PAPERS

AND



PUBLIC DOCUMENTS

OF

THE UNITED STATES,

FROM THE

ACCESSION OF GEORGE WASHINGTON TO THE PRESIDENCY, EXHIBITING A COMPLETE VIEW OF OUR FOREIGN RELATIONS SINCE THAT TIME.

IN TEN VOLUMES.—VOL. VIII.

SECOND EDITION.

PUBLISHED UNDER THE PATRONAGE OF CONGRESS.

INCLUDING

CONFIDENTIAL DOCUMENTS,

NOW FIRST PUBLISHED.

BOSTON:

PRINTED AND PUBLISHED BY T. B. WAIT AND SONS.

1817.

C.R.

CHECKED
May 1913

DISTRICT OF MASSACHUSETTS, TO WIT:

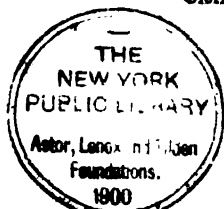
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JNO. W. DAVIS,
Clerk of the District of Massachusetts.



15748

CONTENTS.

	Page
MESSAGE, Dec. 31, 1810, transmitting supplemental report of Secretary of State, enclosing a further communication from general Armstrong relative to French duties	5
Message, Jan. 3, 1811, relative to the Floridas	7
Message, Jan. 12, 1811, transmitting letters from Mr. Pinkney to Secretary of State, and to lord Wellesley	8
Message, Jan. 14, 1811, transmitting proclamation announcing revocation of French decrees	11
Message, Jan. 31, 1811, transmitting letters from Mr. Russell to duke de Cadore, relative to seizure of New Orleans Packet, and French decrees	14
Message, Feb. 19, 1811, transmitting all information not before communicated relative to decrees affecting neutral commerce	18
Message, Nov. 5, 1811, opening Congress	43
Correspondence between Sec'y of State and Mr. Foster	49
Correspondence of Mr. J. S. Smith with lord Wellesley	93
Correspondence between Mr. Monroe and Mr. Foster	95
Correspondence relative to British sloop of war Little Belt	104
Correspondence of Messrs. Monroe and Foster relative to the Floridas	126
Correspondence between Mr. Pinkney and lord Wellesley, relative to French decrees and British orders	135
Correspondence between J. S. Smith and lord Wellesley	164
Judgment of sir W. Scott in case of the Fox and others	166
List of American vessels condemned under orders in council	180
Mr. Russell's correspondence with Secretary of State, M. Champagny, and duke of Bassano, relative to French decrees	181
List of American vessels taken by French after Nov. 1, 1810	200
Mr. Erving's correspondence with Secretary of State and Mr. de Rosenkrantz, relative to Danish captures of American vessels	205
List of American vessels captured by the Danes, cases pending June, 1811	218
Lists of American vessels captured by the Danes, and carried into Christiansand, Holstein, Sleswick, and Danish islands	232
Message, Nov. 7, 1811, transmitting Turreau's letter of Nov. 14, 1810, and Serrurier's of July 23, 1811	233
Message, Nov. 13, 1811, transmitting correspondence between Messrs. Monroe and Foster, and termination of difference relative to Chesapeake	237

Report of committee on foreign relations ; systematick aggressions of the two great belligerents. Nov. 29, 1811	241
Message, Jan. 16, 1812, transmitting report of Secretary of State ; trade to France subject to severe restrictions	246
Message, Jan. 16, 1812, transmitting letter from Mr. Foster to Mr. Monroe, and answer	248
Message, Jan. 17, 1812, transmitting letter from Mr. Foster to Mr. Monroe, and answer	257
Message, March 9, 1812, transmitting correspondence of John Henry, governour Craig, &c.	258
Report of committee of foreign relations relative to Henry, Craig, &c. March 19, 1812	296
Message, March 13, 1812, transmitting letter from Mr. Foster to Mr. Monroe, relative to Henry, Craig, &c.	303
Message, April 1, 1812, recommending an embargo	304
Message, April 23, 1812, relative to captures of American vessels in the Baltick	304
List of American vessels captured in the Baltick	322
Message, May 26, 1812, transmitting correspondence between Sec'y of State and Mr. Barlow, minister at Paris	323
Message, June 1, 1812, recommending war with Great Britain	362
Correspondence between Mr. Foster and Mr. Monroe	369
Correspondence between Mr. Monroe and Mr. Russell	372
Report, or manifesto, of causes of war with Great Britain. June 3, 1812	387
Message, June 4, 1812, transmitting correspondence of Secretary of State with British plenipotentiary	400
Report of French minister of foreign relations. March 10, 1812	411
Message, June 8, 1812, transmitting correspondence of Secretary of State with Mr. Foster	418
Message, June 11, 1812, transmitting correspondence of Secretary of State with Mr. Foster relative to Indian hostilities	430
Documents relative to a seaman claimed by the British government	444
Report of committee relative to excitements of Indians by British. June 13, 1812	445
Message, June 15, 1812, transmitting letters between Secretary of State and Mr. Foster	474
Message, June 16, 1812, transmitting letter from Mr. Russell to Secretary of State, &c.	482
Proclamation of war with Great Britain. June 19, 1812	489
Message, June 22, 1812, transmitting copies of letter from Mr. Russell to Secretary of State, and from lord Castlereagh to Mr. Russell	490
Message, July 6, 1812, transmitting documents relative to British impressments	492—499

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE
HOUSE OF REPRESENTATIVES. DEC. 31, 1810.

I LAY before the House of Representatives a supplemental report of the Secretary of State, containing information, received since the date of my last message, on the subject of their resolution of the 21st instant.

JAMES MADISON.

Department of State, Dec. 31, 1810.

SIR,—Having just received from general Armstrong the enclosed communication, (marked D) I hasten to transmit it to you, as a supplement to the report which I had the honour of laying before you on the 28th of this month.

With the highest respect and consideration, I have the honour to be, &c.

R. SMITH.

The President of the United States.

(D.)

Washington, Dec. 29, 1810.

SIR,—In giving the few papers I brought with me another examination, I have found the enclosed extract from the minutes of the French council of commerce of the 12th of September last. Having a connection with the subject of my letter of yesterday, I have the honour of transmitting it to you, and at the same time of renewing the assurances of my very high consideration.

JOHN ARMSTRONG.

Hon Robert Smith, Secretary of State.

VOL. VIII.

1

TRANSLATION.

Extract from the Minutes of the Office of the Secretary of State.

At the Palace of St. Cloud, Sept. 12, 1810.

NAPOLEON, emperor of the French, king of Italy, protector of the confederation of the Rhine, and mediator of the Swiss confederation :

Upon the report of our minister of the interior :

After having heard our council of the administration of the finances, and in conformity with our decree of the 5th of August, 1810.

We have decreed and do decree as follows :

ART. I. The duties of entry upon the articles of merchandise hereafter mentioned, are regulated in the following manner :

	francs.	cents.
American pot ash, per quintal	-	30 00
Hides in the hair, American, the piece,	-	2 50
Fish-oil, per quintal, decimal	-	25 00
Cod fish, idem,	-	10 00
Dried fish, idem,	-	8 00
Elephants' teeth, idem,	-	400 00
Tortoise shell, idem,	-	1,500 00
Mother of pearl, idem,	-	200 00
American rice, idem,	-	20 00
Cachew, idem,	-	600 00
Vanilla, per killogramme,	-	60 00
Bark, red, idem,	-	10 00
yellow, idem,	-	4 00
grey rolled, idem,	-	7 40
Rheubarb, idem,	-	6 00
Ipecacuanha, idem,	-	12 00
Shumach, per quintal decimal,	-	30 00
Ginger, idem,	-	30 00
Pimento, (see the decree of August 5)		
Black pepper, Cassia Lignea, idem,		
Cinnamon Ord.		
" <i>Casse ou Cuneſice</i> ," per quintal,	-	150 00
Rocou, } idem,		200 00
Ordrilla, }		
" <i>Curcuma</i> ," idem,	-	125 00

		francs.	centr.
Gum of Senegal,	}	idem,	75 00
Arabick,			
laric,			
Gayac,	}	per quintal decimal,	200 00
Gum Copal,			
Shellac,			
Indian Rubber,			
Gum Ammoniac,	}	idem,	500 00
Segapanum,			
Gum elemi,			
gute,	}	idem,	600 00
opoponax,			
Gayac wood,			
Cayenne do.	}	idem,	30 00
Quercitron bark,			
Pallisandre wood,			
Red wood, per quintal decimal,			150 00
Red Sandal wood,			20 00
Aloe wood,			800 00
Nephretic wood,			500 00
"Rhodes" wood			200 00
Sandal Citron wood,			250 30
Tanaris wood,			150 00
Brazil wood,	}		15 00
Caliatour wood,			

ART. II. Our ministers of the interior, of justice, and of the finances, are charged with the execution of the present decree.

NAPOLEON.

By the Emperor.

The Minister Secretary of State,

H. B. DUKE OF BASSANO.

The Counsellor Director General of the Customs,

THE COUNT DE SUSSY.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE
TO THE FLORIDAS. JAN. 3, 1811.

[Not published, as negotiations on the subject are still pending.]

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JAN. 12, 1811.

I TRANSMIT to Congress, copies of a letter from the minister plenipotentiary of the United States, at London, to the Secretary of State, and of another, from the same, to the British secretary for foreign affairs.

JAMES MADISON.

Mr. Pinkney to Mr. Smith. London, Nov. 5, 1810.

SIR,—I have presented a second note, of which a copy is enclosed, to lord Wellesley, on the subject of the orders in council, under an impression that the state of the king's health (for which I beg to refer you to the paper herewith transmitted) did not render it improper, and that if it was not improper on that account, it was indispensable on every other.

The day had gone by when the Berlin and Milan decrees were to cease to operate, according to the communication made by the government of France to the American minister at Paris, and published in the official journal of that government; and yet no step whatever had been taken, or apparently thought of, towards the revocation of the British orders. I had received no explanation of the reasons of this backwardness, and no such assurance, looking to the future, as could justify an opinion, that it would not continue. Lord Wellesley's letter of the 31st of August, which I had left unanswered till after the 1st of November, that I might stand on the strongest possible ground when I did answer it, made no profession of being a present measure, and (though from obvious motives, I have not so represented it in my note to him of the 3d inst.) was vague and equivocal as a prospective pledge. It defined nothing, and was so far from warranting any specific expectation, that it seemed rather to take away the very little of precision which belonged to former declarations on the same point. It was highly important to the commerce of the United States, that this ambiguity

should be cleared away, with all practicable expedition, and if it could not be removed, that no presumption should be afforded of a disposition on the part of the United States to acquiesce in it. My note to lord Wellesley was written and delivered upon these inducements.

In the king's actual situation, the orders in council can scarcely be formally recalled, even if the cabinet are so inclined; but it does not follow that something may not be done (though I have no reason to think that any thing will be done) which may be productive of immediate advantage, and at any rate prepare the way for the desired repeal.

I have the honour to be, &c.

WM. PINKNEY.

Hon. R. Smith, Secretary of State.

P. S. This letter is written in great haste, that I may send it to Liverpool by this evening's mail.

W. P.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
Nov. 3, 1810.*

MY LORD,—In my note of the 25th of August, I had the honour to state to your lordship, that I had received from the minister plenipotentiary of the United States, at Paris, a letter, dated the 6th of that month, in which he informed me, that he had received from the French government a written and official notice, that it had revoked the decrees of Berlin and Milan, and that after the first of November, those decrees would cease to have any effect; and I expressed my confidence, that the revocation of the British orders in council, of January and November, 1807, and April, 1809, and of all other orders dependent upon, analogous to, or in execution of them, would follow of course.

Your lordship's reply, of the 31st of August, to that note, repeated a declaration of the British minister in America, made, as it appears, to the government of the United States in February, 1808, of "his majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his

readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary," and added an official assurance, that, "whenever the repeal of the French decrees should have actually taken effect, and the commerce of neutral nations should have been restored to the condition in which it stood previously to the promulgation of those decrees, his majesty would feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt."

Without departing, in any degree, from my first opinion, that the United States had a right to expect, upon every principle of justice, that the prospective revocation of the French decrees would be immediately followed by at least a like revocation of the orders of England, I must remind your lordship, that the day has now passed when the repeal of the Berlin and Milan edicts, as communicated to your lordship, in the note above mentioned, and published to the whole world by the government of France, in the *Moniteur* of the 9th of September, was, by the terms of it, to take effect. That it has taken effect, cannot be doubted; and it can as little be questioned, that, according to the repeated pledges, given by the British government, on this point, (to say nothing of various other powerful considerations,) the prompt relinquishment of the system, to which your lordship's reply to my note of the 25th of August, alludes, is indispensable.

I need scarcely mention how important it is to the trade of the United States, that the government of Great Britain should lose no time in disclosing with frankness and precision its intentions on this head. Intelligence of the French repeal has reached America, and commercial expeditions have doubtless been founded upon it. It will have been taken for granted that the British obstructions to those expeditions, having thus lost the support which, however insufficient in itself, was the only one that could ever be claimed for them, have been withdrawn; and that the seas are once more restored to the dominion of law and justice.

I persuade myself that this confidence will be substantially justified by the event, and that to the speedy recall of such orders in council as were subsequent in date to the decrees of France, will be added the annulment of the

antecedent order to which my late letter respecting blockades particularly relates. But if, notwithstanding the circumstances which invite to such a course, the British government shall have determined not to remove those obstructions with all practicable promptitude, I trust that my government will be apprized, with as little delay as possible, of a determination so unexpected, and of such vital concern to its rights and interests; and that the reasons upon which that determination may have been formed, will not be withheld from it.

I have the honour, &c. &c.

WM. PINKNEY.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE
HOUSE OF REPRESENTATIVES. JAN. 14, 1811.

I TRANSMIT to the House of Representatives, copies of the documents referred to in their resolution of the fourth instant.

JAMES MADISON.

CIRCULAR.

Treasury Department, Nov. 2, 1810.

SIR,—You will herewith receive a copy of the proclamation of the President of the United States, announcing the revocation of the edicts of France which violated the neutral commerce of the United States, and that the restrictions, imposed by the act of May 1st last, accordingly cease from this day in relation to France. French armed vessels may therefore be admitted into the harbours and waters of the United States, any thing in that law to the contrary notwithstanding.

It also follows, that if Great Britain shall not, on the 2d of February next, have revoked or modified in like manner her edicts violating the neutral commerce of the United

States, the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 18th sections of the "act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall, in conformity with the act first above mentioned, be revived and have full force and effect, so far as relates to Great Britain and her dependencies, from and after the said 2d day of February next. Unless, therefore, you shall before that day be officially notified by this department of such revocation or modification, you will, from and after the said day, carry into effect the above mentioned sections, which prohibit both the entrance of British vessels of every description into the harbours and waters of the United States, and the importation into the United States of any articles the growth, produce or manufacture of the dominions, colonies and dependencies of Great Britain, and of any articles whatever brought from the said dominions, colonies and dependencies.

I am respectfully, sir, your obedient servant,

The Collector of the Customs
for the district of

By the President of the United States,

A PROCLAMATION.

WHEREAS by the fourth section of the act of Congress, passed on the first day of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," it is provided "that in case either Great Britain or France shall, before the third day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not within three months thereafter so revoke or modify her edicts in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eighteenth sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes,"

shall, from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies and dependencies, and to the articles the growth, produce or manufacture of the dominions, colonies and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid :”

And whereas it has been officially made known to this government, that the edicts of France violating the neutral commerce of the United States have been so revoked as to cease to have effect, on the first of the present month : Now, therefore, I, JAMES MADISON, President of the United States, do hereby proclaim that the said edicts of France have been so revoked as that they ceased on the said first day of the present month to violate the neutral commerce of the United States ; and that, from the date of these presents, all the restrictions imposed by the aforesaid act shall cease and be discontinued in relation to France and her dependencies.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand at the city of Washington, [L. S.] this second day of November, in the year of our Lord one thousand eight hundred and ten, and of the independence of the United States the thirty-fifth.

JAMES MADISON.

By the President.

R. SMITH,
Secretary of State.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JAN. 31, 1811.

I LAY before Congress a letter from the charge d'affaires of the United States at Paris, to the Secretary of State : and another from the same to the French minister of foreign relations : also two letters from the agent of the American consul at Bordeaux, to the Secretary of State.

JAMES MADISON.

Copy of a Letter from Jonathan Russell, Esq. Charge d'Affaires of the United States at Paris, to Mr. Smith, Secretary of State. Paris, Dec. 11, 1810.

SIR,—On the evening of the 9th instant, I learnt that the Essex frigate had arrived at L'Orient on the 4th, and had been put under quarantine for five days, for the want of a bill of health, during which time the messenger is not allowed to come on shore. At the same time that I received this intelligence, I was also informed that the brig New Orleans Packet was seized at Bordeaux, under the Berlin and Milan decrees, by the director of the customs at that place. The simultaneous occurrence of these two events, formed in my opinion a crisis which required a prompt decision of this government. Under this impression I immediately addressed to the duke of Cadore the note, of which the enclosed is a copy, and in which I thought it politic to remonstrate with firmness, against the proceedings of the director of the customs at Bordeaux, and to leave the government here at liberty to disavow them. This disavowal, however, I am persuaded, depends entirely on the nature of the despatches brought by the Essex. I feel, therefore, the most lively anxiety to receive them. In the mean time I give this letter a chance of reaching you, by a vessel about leaving Bordeaux for New York.

Since my last, the Hanseatic towns have been annexed to this empire.

I have informed Mr. Pinkney of the arrival of the Essex, and suggested to him the possibility that the proclamation

of the President had come out by her, in order that he might, if he thought proper, make a final attempt to obtain a repeal of the orders in council, while it ~~was~~ yet in the power of the British ministry to do it with a good grace.

I have the honour to be, &c.

JONA. RUSSELL.

Hon. R. Smith, Sec'y of State, United States.

Mr. Russell to the Duke de Cadore. Paris, December 10, 1810.

SIR,—I have this moment learnt that the American brig New Orleans Packet, lately arrived at Bordeaux, has, with her cargo, the bona fide property of citizens of the United States, and laden at the port of New York, been seized by the director of the customs under the Berlin or Milan decrees. I have also been informed, that this director of the customs, not satisfied with this hardy violation of the solemn assurances given by your excellency to general Armstrong on the 5th of August last, and confirmed by your letter to him of the 7th September, that these decrees were revoked and would cease to operate from the 1st of November, has, without regard to the plighted faith of his government, announced his intention of selling the provisions which constitute a part of the cargo, under the pretext that they are perishable.

The clear and unequivocal manner in which the revocation of the Berlin and Milan decrees were announced by your excellency, forbid me for a moment to suppose, that the violent proceedings of this man will be sanctioned by his majesty the emperor and king, or that the least delay will be allowed in placing the property thus arrested at the free disposition of the rightful owner, whose confidence alone in the good faith with which it becomes nations to perform their engagements, has brought him to the place where he is so inhospitably treated.

I am persuaded that your excellency will not, on this occasion, attempt to remind me of the conditions on which the revocation of those decrees were predicated. These conditions were in the alternative, and the performance of either is sufficient to render absolute and perpetual that revocation. It is of no importance that the British orders in council have not been withdrawn, if the United States,

in due time, perform the condition which depends alone on them. And what is this condition? why, to execute an act of Congress against the English, which, to be thus executed, requires the previous revocation of these very decrees. The letter of your excellency, of the 5th of August, appears to have been written with a full knowledge of this requisition of the law, and manifestly with the intention to comply with it, in order that it might be competent for the President of the United States to exercise the contingent power which had been given to him.

It will not be pretended, that the decrees have in fact been revoked; but that the delay of the United States in performing the condition presented to them authorizes their revival. The case of the New Orleans Packet is the first which has occurred since the 1st of November, to which the Berlin or Milan decrees could be applied, and if they be applied to this case, it will be difficult for France to show one solitary instance of their having been practically revoked. As to delay on the part of the United States, there has been none. No official information of the letter of your excellency of the 5th of August, left France for the United States, owing to circumstances which it was not in the power of general Armstrong to control, until the 29th of September, and to this moment I have not learnt that such official information has been there received. I might indeed have learnt it, and been able now to have communicated to your excellency, the measures on which the President has decided in consequence of it, had not the frigate the *Essex*, despatched by him, been put under quarantine on her arrival at L'Orient, for the want of a bill of health, and the messenger thereby detained since the 4th of this month.

I will not undertake to decide whether a bill of health ought, in courtesy, to be exacted of a frigate of a friendly power, coming in the *winter season* from a place not known to have been lately afflicted with any malignant disease; but surely the delay which this exaction occasions, cannot be imputed to a want of due diligence on the part of the American government.

It is from this view of the subject that I am thoroughly convinced, that the application of the Berlin or Milan decrees, by the director of the customs at Bordeaux, to the New Orleans Packet, will not be approved by his majesty,

but that prompt and efficient measures will be taken to correct a procedure, which, if persisted in, might produce a state of things which it is the obvious interest of both nations to avoid.

I pray your excellency to be assured of my most distinguished consideration, &c.

JONATHAN RUSSELL.

Copy of a Letter from Chr. Meyer to Mr. Smith, Secretary of State. United States Consulate, Bordeaux, Dec. 6, 1810.

SIR,—I have the honour to enclose a copy of Mr. Cathalan's letter to me, received this morning, concerning the recapture of the schooner Grace Ann Greene, of New York, Daniel Greene, master, who brought her into the port of Marscilles, having two British officers and seven sailors on board, and they only being six men, amongst which number two boys.

The brig New Orleans Packet, of New York, with a cargo of provisions and three hundred bags of cocoa on board, bound to the Mediterranean for a market, went to Gibraltar, where, after lying some time, came to this port, where he has been sequestered.

The schooner Friendship, of and from Baltimore, captain Snow, with a cargo of coffee and campeache, is arrived five days ago in this river. Whatever the issue may be of these two vessels, I shall have the honour to inform you of.

I remain, very respectfully, sir, &c.

CHR. MEYER,

The Secretary of State of the U. States
of America, Washington.

Copy of a Letter from Chr. Meyer to Mr. Smith, Secretary of State. United States Consulate, Bordeaux, Dec. 14, 1810.

SIR,—Annexed is triplicate of my respects to you of the 6th instant, the brig Osmin and the ship Commodore Rodgers, by which the original and duplicate went, having not got to sea yet.

NOL. VIII.

3

The brig New Orleans Packet, of New York, captain Harris, mentioned in my former letter, has since been seized by the collector, and her cargo has been put in the imperial customhouse.

The schooner Friendship, of and from Baltimore, captain Snow, has been sequestered.

This is accompanied with an account of sundry advances made for the relief of distressed seamen for this port and the port of Bayonne, with twenty-two vouchers, amounting to francs 4,934 20, and for which I have drawn on Jonathan Russell, Esq. our charge d'affaires at Paris.

Captain Sheddy, of the schooner Maria Louisa, bound to New York, has eight distressed seamen on board, and for whom I have paid no passage money, nor have I laid in provisions for them.

The ship Commodore Rodgers, captain Shaler, from Bayonne, bound to New York, will carry home from 50 to 60 seamen in distress, of whom I shall have the honour to transmit you a list and an account by my next.

The duty on cocoa has been reduced from fr. 5 50, to fr. 2 75, per pound.

The Essex frigate is arrived at L'Orient, from the United States.

This is accompanied by a file of newspapers and which I shall have the honour to continue to send whenever opportunities to offer.

I have the honour, &c. &c.

CHR. MEYER.

Robert Smith, Esq. Secretary of State.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE HOUSE
OF REPRESENTATIVES. FEB. 19, 1811.

I TRANSMIT to the House of Representatives a report of the Secretary of State, complying with their resolution of the eighteenth instant.

JAMES MADISON.

Department of State, Feb. 19, 1811..

SIR,—In pursuance of the resolution of the House of Representatives of yesterday, I have the honour of laying before you the accompanying papers (marked A and B) which contain all the information, not heretofore communicated, that has been received by this department, “touching the repeal or modification as well as the practical operation of the orders and decrees affecting our neutral commerce, since the 1st day of November, 1810.”

With the greatest respect, I have the honour to be, &c.

R. SMITH.

The President of the U. States.

(A.)

Mr. Russell to the Secretary of State. Paris, December 4, 1810.

SIR,—This serves merely to cover a copy of my letter to Mr. Pinkney, of the 1st of this month; since that time nothing has come to my knowledge to affect the statement which it contains. It is my duty, however, to say that I have not learnt the occurrence of any case to which the Berlin and Milan decrees could be applied.

I have the honour to be, &c.

JON. RUSSELL.

The Hon. R. Smith, Secr’y of State.

Mr. Russell to Mr. Pinkney. Paris, Dec. 1, 1810.

SIR,—As nothing has transpired here of sufficient importance to be communicated by a special messenger, and as no safe private conveyance has hitherto presented itself, I have delayed, till now, to acknowledge the receipt of your letters under date of the seventh and twenty-eighth of October.

No event within my knowledge has occurred, either before or since the 1st of November, to vary the construction given by us to the very positive and precise assurances of the duke of Cadore on the 5th August, relative to the revocation of the Berlin and Milan decrees. That these

decrees have not been executed for an entire month on any vessel arriving during that time, in any of the ports of France, may, when connected with the terms in which their revocation was announced, fortify the presumption that they have ceased to operate. I know, indeed, of no better evidence than this which the negative character of the case admits, or how the non-existence of an edict can be proved, except by the promulgation of its repeal and its subsequent non-execution.

Our attention here is now turned towards England and the United States. The performance of one of the conditions on which the revocation of the decrees was predicated, and which is essential to render it permanent, is anxiously expected; and it is devoutly to be wished that England, by evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measure which exclusively depend on them.

I need not suggest to you the importance of transmitting hither as early as possible, any information of a decided character which you may possess relative to this subject, as an impatience is already betrayed here to learn that one or the other of the conditions has been performed.

I am, sir, with great respect, &c.

JON. RUSSELL.

His Excellency Wm. Pinkney, Esq.

*The Vice Consul at Bordeaux to the Secretary of State.
United States Consulate, Bordeaux, Dec. 31, 1810.*

SIR,—I had the honour of addressing you the 14th instant, by this opportunity (the schooner Maria Louisa, captain Skiddy) and I have now to enclose a newspaper of yesterday, containing two letters from the French minister of justice to the president of the tribunal of prizes, and from the minister of finance to the collector general of all the customs in France, concerning American navigation.

I have the honour to be, &c.

CH. MEYER,

Vice Consul of the U. States.

Hon. Robert Smith, Sec^y of State.

TRANSLATION.

FRENCH EMPIRE.

PARIS, DEC. 26, 1810.

Copy of a Letter from His Excellency the Grand Judge, Minister of Justice, to the Counsellor of State, President of the Council of Prizes. Paris, Dec. 25, 1810.

MR. PRESIDENT,—The minister of foreign relations, by order of his majesty, the emperor and king, addressed on the fifth of August last, to the plenipotentiary of the United States of America, a note containing the following words :

“ I am authorized to declare to you that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect ; it being well understood, that in consequence of this declaration, the English will revoke their orders in council, and renounce the new principles of blockade which they wished to establish, or that the United States, in conformity to the act you have just communicated, will cause their rights to be respected by the English.”

In consequence of the communication of this note, the President of the United States issued, on the 2d of November, a proclamation to announce the revocation of the decrees of Berlin and Milan, and declared that in consequence thereof, all the restrictions imposed by the act of the 1st of May must cease with respect to France and her dependencies : on the same day the treasury department addressed a circular to all the collectors of the customs of the United States, which enjoins them to admit into the ports and waters of the United States armed French vessels ; prescribes to them to apply, after the 2d of February next, to English vessels of every description, and to productions arising from the soil and industry, or the commerce of England and her dependencies, the law which prohibits all commercial relations, if at that period the revocation of the English orders in council, and of all the acts violating the neutrality of the United States, should not be announced by the treasury department.

In consequence of this engagement entered into by the government of the United States, to cause their rights to be respected, his majesty orders, that all the causes that

may be pending in the council of prizes of captures of American vessels, made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the second of February next, the period at which the United States having fulfilled the engagement to cause their rights to be respected, the said captures shall be declared null by the council, and the American vessels restored, together with their cargoes, to their proprietors.

Receive, Mr. President, the new assurances of my most distinguished consideration.

THE DUKE OF MASSA.

Copy of a Letter from the Minister of Finance to the Count of Sussy, Counsellor of State, Director General of the Customs. December 25, 1810.

On the 5th of last August, the minister of foreign relations wrote to Mr. Armstrong, minister plenipotentiary of the United States of America, that the Berlin and Milan decrees were revoked, and that after the first of November they would cease to have effect; it being well understood, that in consequence of this declaration, the English would revoke their orders in council and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act communicated, should cause their rights to be respected by the English.

On the communication of this note, the President of the United States issued, on the 2d of November, a proclamation, which announces the revocation of the Berlin and Milan decrees, after the first of November; and which declares, that in consequence thereof, all the restrictions imposed by the act of the first of May, 1809, should cease with respect to France and her dependencies.

The same day, the treasury department addressed to the collectors of the customs a circular, which directs them to admit into the ports and waters of the United States,

armed French vessels, and enjoins it on them to apply, after the 2d of February next, the law of the first of May, 1809, prohibiting all commercial relation to English vessels of every description, as well as to productions of the soil, industry or commerce of England, and her dependencies.

His majesty having seen, in these two pieces, the enunciation of the measures which the Americans purpose taking on the second of February next, to cause their rights to be respected, has ordered me to inform you, that the Berlin and Milan decrees must not be applied to any American vessels that have entered our ports since the first of November, or may enter in future; and that those which have been sequestered, as being in contravention of these decrees, must be the object of a special report.

On the second of February, I shall acquaint you with the intentions of the emperor with regard to the definitive measures to be taken for distinguishing and favouring the American navigation.

I have the honour to salute you.

The Minister of Finance,

THE DUKE OF GAETE.

(B.)

Extract of Letter from Mr. Pinkney to Mr. Russell. Oct. 7, 1810.

It may not be amiss to mention that, as it will be obviously prudent, even if it be not absolutely necessary, to furnish me with all such further evidence as can conveniently be gained, confirmatory of our expectation that the French repeal of the Berlin and Milan decrees will take effect on the first of November; I beg you to transmit me such evidence if and as soon as it shall be gained.

It may be yet more important to send me with as little delay as possible, *after the first of November*, the most decisive proof in your power that the repeal *has taken effect*, at least an official letter from you to me stating that fact.

Extract of a Letter from Mr. Pinkney to Mr. Smith. London, Nov. 7, 1810.

I ENCLOSE a duplicate of my letter of the 5th instant, in which was transmitted a copy of my note to lord Wellesley, of the third, concerning the orders in council.

I have little more to say in addition to what is contained in that letter, than that it is my intention, in case lord Wellesley gives me an unfavourable answer to it, to enter at large into the whole subject in my rejoinder; and, in case he delays improperly his reply, to take as strong notice of that impropriety as I can.

As soon as the king recovers, I mean to mention again the subject of a minister plenipotentiary to the United States, (which lord Wellesley, notwithstanding his written and verbal pledges, seems to have quite forgotten) and if satisfactory assurances are not renewed and *acted upon*, to announce my determination to return to America, and to leave a *chargé d'affaires*; in the choice of whom, however, I shall have considerable difficulty, unless you should furnish me in season with the expected secretary of legation. I presume that in taking this course I shall fulfil the wishes of the President, and I can assure you, with great truth, that I shall consult by it my own inclinations.

Mr. Pinkney to Mr. Smith. London, Nov. 14, 1810.

SIR,—I have finally determined not to mention again to lord Wellesley (as I had thoughts of doing) the subject of a plenipotentiary successor to Mr. Jackson. I think, upon reflection, (and shall act accordingly) that I ought, after what has passed, to leave him, without further inquiry or notice, on my part, to shape his course upon it; and that, if an appointment should not be made as soon as the king's health (which would seem to be improving) will permit, I ought at once to send in an official note, announcing my resolution to return to America, and to leave some suitable person as a *chargé d'affaires*.

My letter of the 23d of July informed you that after lord Wellesley's written assurance of the 22d of that month (which was in conformity, as far as it went, with his assurances in conversation) "that it was his intention *immediately* to recommend the appointment of an envoy extraordinary and minister plenipotentiary from the king to

the United States," I did not think myself authorized to take the step which the instructions contained in your letter of the 23d of May, in certain circumstances, prescribed.

My opinion was, that whether the prospect which then existed, of bringing to a conclusion the affair of the Chesapeake, were taken into the account or not, it was my obvious duty to remain at my post, most irksome as it was every day becoming, until it should incontestably appear, that those assurances were not to be relied upon.

Before a sufficient time had elapsed to warrant so harsh a conclusion, I received from lord Wellesley, on the 28th of August, a farther *casual* intimation (reported to you in my letter of the 29th of the same month) that his recommendation of a minister would, as he believed, be made in the course of that week or the next.

In the mean time the repeal, by the government of France, of the Berlin and Milan decrees, had produced a posture of affairs which, whatever might be lord Wellesley's forgetfulness of his own declarations, or the inattention of his government to what he might advise in consequence of them, rendered my stay in England for two or three months longer, indispensable.

In fine, the effect of that consideration had not ceased when the illness of the king made it impossible that I should depart.

Upon the king's recovery, I shall have every motive for bringing this matter to an issue, and none for the least hesitation or reserve upon it. Several months will have been allowed for the performance of an act which might have been completed in as many weeks.

I shall have done every thing in my power on the subjects connected with the revocation of the French edicts. And the British government will be in a situation to admit of such proceedings on its own part and on mine as the occasion will require.

From lord Wellesley's intimation to me on the 28th of August, (mentioned above) it is perfectly clear, that he had not then executed the intention, so positively announced in his note of the 22d of July. Five or six weeks had passed, and that which he had both said and written he meant to do *immediately*, he was not yet sure that he meant to do within another fortnight. The presumption seems,

nevertheless, to be quite unnatural, that lord Wellesley continued, up to the commencement of the king's malady, to be negligent of a pledge, which he chose to rest not merely on his *official* but his *personal* character—a pledge, of which he knew I could neither question the sufficiency nor doubt the sincerity, and by which, as he also knew, my conduct on an extremely delicate point of duty was wholly determined.

On the other hand, if lord Wellesley *has* been mindful of his pledge, and has recommended a minister in compliance with it, how has it happened (how *can* it have happened) that this recommendation has not been followed by an appointment?

In the midst of all this doubt, which lord Wellesley might dissipate if he pleased by an explanation apparently necessary for his own sake, there is, as I believe, no uncertainty as to the course which, in the actual state of my instructions (or on the score of general propriety) I ought to pursue; especially as I must infer from your silence since the arrival of Mr. Morier at Washington, (if I had no other reason for that inference) that no such communication was made, either by or through that gentleman to you, as ought in the judgment of the President to have any influence upon my conduct on this occasion.

I have the honour to be, &c.

WM. PINKNEY.

Extract from the Postscript, dated the 15th, to Mr. Pinkney's Letter of the 14th November, 1810, to Mr. Smith.

P. S. Nov. 15th. I hear nothing from lord Wellesley, and not much from any other quarter, concerning the orders in council. I have not lately sought any interview with him on that or any other occasion. It is impossible for me to look back upon the past, and to place much value upon conferences.

I am particularly anxious to get from lord Wellesley, in case the British government persists in declining to repeal the orders, a distinct statement in *writing* of the motives of its conduct.

Thus far I have taken for granted the manifest and incontrovertible justice of our expectations; believing that

there could in the first instance be no sufficient inducement for anticipating difficulties and objections in so plain a case ; that if any existed they ought to be, and would be, avowed, and that when avowed, I could meet them with more advantage than while they were only conjectured. Should, however, a studious ambiguity continue to be preserved on a subject which now touches more nearly than ever (in my opinion *vitally*) the character and rights of our country, I shall very soon think myself called upon to suppose for this government reasons which it will not declare, and to examine them with fulness and freedom in a letter to lord Wellesley. It is unnecessary in the mean time to trouble you with the view which that letter will contain. I have not lately received any thing from France which enables me to put the repeal of the French decrees in a stronger light than could otherwise be done. Mr. Russell has written me two letters, the first dated the 26th of September, and received on the 3d of October ; the other dated the 10th of October, and received the 13th of November. This last enclosed a letter to me from general Armstrong, of the 29th of September. He had written me a short note from Paris, dated the 13th of September, (but not received till long afterwards) which enclosed a copy of the French minister's letter to him of the 12th of that month, already received from Mr. Russell in his letter of the 26th of September.

Such use as could be made of these different communications I have made. Of course it could be very little. A *Moniteur* of the 9th of September, containing the duke of Cadore's letter of the 5th of August to general Armstrong, (which I got through a private channel) is much more likely to be of service (if any thing can be of service) here, where that journal is considered as equivalent to the London gazette ; and I have accordingly referred to it in my note to lord Wellesley of the 3d instant.

Extract of a Letter from Mr. Pinkney to the Secretary of State: London, Nov. 19, 1810.

"My third letter to lord Wellesley concerning the French decrees and the British orders in council, will be presented much sooner than I had at first intended. I

shall, I think, present it in a few days. Upon the other subject of my letter to you of the 14th instant, I need not add any thing to what is there said upon it."

Extract of a Letter from Mr. Pinkney to the Secretary of State. London, Nov. 21, 1810.

"AN American vessel (the Fox) has, within a few days past, been brought into Plymouth as prize to a king's ship (the Amethyst) for an imputed attempt to go to Cherbourg in France, in violation of the unrepealed British orders. I have requested that the case may be represented in proper form to me; and I mean to use it as the best ground for my intended letter to lord Wellesley."

Extract of a Letter from Wm. Pinkney, Esq. Minister Plenipotentiary of the United States, in London, to the Secretary of State. London, Dec. 14, 1810.

"ON the 4th instant, I received from lord Wellesley a note, of which a copy marked No. 1, is enclosed, respecting the repeal of the French decrees. The conference to which it invited me took place on the 5th; and in the course of it I explained to him, at considerable length, my view of that subject, and of the points immediately connected with it. Lord Wellesley heard me in his usual manner; but confined himself to such general remarks and professions as I need not repeat to you. He proposed that our conference should be renewed on the 7th, and engaged in the mean time to report to his colleagues what I had said, and at our next interview to make me acquainted with the result.

"He introduced, of his own accord, the two subjects of a minister plenipotentiary, and the Chesapeake.

"On the first, he professed to entertain the same disposition and intention as heretofore, and declared that the delay which had taken place arose altogether from some obstacles, of a personal nature, to obtaining the services of the person whom he particularly wished to send to America; that he hoped these obstacles would soon be removed; that he had another person in view if it should be otherwise; that he had not supposed that delay could be

considered as of any moment by my government, after the assurance contained in his note to me in July last; that these temporary inequalities were common, and when not meant to be offensive, were never held to be so, &c. &c. &c.

"On the *second*, he informed me that he had not sent me a paper which he had prepared upon it, because he thought it would be well that the new minister should carry out the adjustment, and consequently, that it should be postponed till he was appointed. He repeated that we should have no difficulties upon it. I give you these verbal explanations as I received them.

"On the 6th instant, I received from lord Wellesley another note, of which a copy, marked No. 2, is enclosed, requesting me to recapitulate in writing my verbal communication of the 5th. With this request I complied, as you will perceive by the enclosed copy, marked No. 3, of my letter to him of the 10th.

"I could have no motive for going to him on the 7th, and had therefore no interview with him on that day.

"As the case of the *Fbx* was rather pressing, and I was not sure that I could prepare my letter on the general subject in season, I sent in a separate note upon it on the 8th. A copy of that note, marked No. 4, is enclosed. I have no reply to it, and did not expect one; but I understand that the cause has been, and will be postponed.

"A newspaper copy of the President's proclamation of the 2d of November, arrived in London on the 11th instant, and produced a good deal of sensation. It gave me pleasure to find my letter to lord Wellesley so supported. I hope soon to receive an official communication of it.

"What will be done here on the affair of the orders in council, &c. I cannot yet say. The general impression seems to be, that they will do nothing! My letter to lord Wellesley was written (as my verbal communication had been given) under a persuasion that they will do nothing if they can help it. A very firm tone ought now to be assumed with this government."

(No. 1.)

Foreign Office, December 4, 1810.

SIR,—After the most accurate inquiry I have not been able to obtain any authentick intelligence of the actual repeal of the French decrees, to which your notes of the 25th of August, and 3d of November refer, or of the restoration of the commerce of neutral nations to the condition in which it stood previously to the promulgation of those decrees.

If you should be in possession of any such information, I should be happy to receive it from you, and for that purpose I request to have the honour of a conference with you at this office to-morrow, at two o'clock.

I have the honour to be, &c.

WELLESLEY.

Wm. Pinkney, Esq. &c. &c. &c.

(No. 2.)

Foreign Office, December 6, 1810.

SIR,—The importance of the verbal communication which I had the honour of receiving from you yesterday, induces me to request that you will have the goodness to commit the substance of it to writing, at the earliest time which may suit your convenience.

As soon as I shall have received such a written statement from you, I shall be anxious to return an official reply in the same form.

Under these circumstances it may perhaps be unnecessary that you should take the trouble of calling at this office to-morrow.

If, however, you should be desirous of seeing me, I shall be ready to have the honour of receiving you between two and three o'clock.

I have the honour to be, &c.

WELLESLEY.

Wm. Pinkney, Esq. &c. &c. &c.

(No. 3.)

*Copy of a Letter from Mr. Pinkney to Lord Wellesley.
Great Cumberland Place, Dec. 10, 1810.*

MY LORD,—In compliance with the request contained in your note of the 6th instant, I proceed to recapitulate in this letter (with some variations however) the statements and remarks which I had the honour to make in our conference of the 5th, respecting the revocation of the French decrees, as connected with a change of system here on the subject of neutral rights.

Your lordship need not be told that I should have been happy to offer, at a much earlier moment, every explanation in my power on matters of such high concern to the rights and commerce of my country, and the future character of its foreign relations, if I had been made to understand that explanation was desired.

My written communications of August and November were concise, but they were not intended to be insufficient. They furnished evidence which I thought conclusive, and abstained from laboured commentary, because I deemed it superfluous. I had taken up an opinion, which I abandoned reluctantly and late, that the British government would be eager to follow the example of France in *recalling*, as it had professed to do in *promulgating*, that extraordinary system of maritime annoyance which, in 1807, presented to neutral trade in almost all its directions the hopeless alternative of inactivity or confiscation; which considered it as a subject to be regulated, like the trade of the united kingdoms, by the statutes of the British parliament; and undertook to bend and fashion it by every variety of expedient to all the purposes and even the caprices of Great Britain. I had no idea that the remnant of that system, productive of no conceivable advantage to England, and deservedly *odious*, for its theory and destructive effects, to others, could survive the publick declaration of France that the edicts of Berlin and Milan were revoked. Instructed at length, however, by your lordship's continued silence, and alarmed for the *property of my fellow citizens*, now more than ever exposed, by an erroneous confidence, to the ruinous operation of the British orders. I was preparing to support my general representations by

detailed remonstrance, when I received the honour of your note of the 4th inst. In the conference which ensued, I troubled your lordship with a verbal communication, of which the following is nearly the substance.

The doubts which appear to stand in the way of the recall of the British orders in council, (under which denomination I include certain orders of blockade of a kindred principle and spirit) must refer to the *manner*, or the *terms*, or the *practical effect* of the alleged repeal of the decrees of France.

That the *manner* of the proceeding is satisfactory to the British government cannot be questioned; since it is precisely that in which its own numerous orders for establishing, modifying or removing blockades and other maritime obstructions, are usually proclaimed to neutral states and merchants.

The French repeal was officially notified on the 5th of August, to the minister plenipotentiary of the United States at Paris, by the French minister for foreign affairs; as I had the honour to inform your lordship in my letter of the 25th of the same month, which not only gave the import, but (as the enclosed copy will show) adopted the words of general Armstrong's statement to me of the tenour and effect of that notice.

On the 9th of August the notification to general Armstrong was published in the *Moniteur*, the official journal of the French government, as the act of that government; and thus became a formal declaration, and a public pledge to all who had an interest in the matter of it.

It would be a waste of time to particularize the numerous instances of analogous practice in England, by which this course is countenanced: but a recent example happens to be before me, and may therefore be mentioned. The partial recall, or modification of the English blockade of the ports and places of Spain from Gijon to the French territory, (itself known to my government only through a circular notification to me, recited afterwards in the London gazette) was declared to the American and other governments in exactly the same mode.

I think it demonstrable that the *terms* in which the French revocation was announced, are just as free from well founded objection as the *manner*.

Your lordship's view of them is entirely unknown to me but I am not ignorant that there are those in this country who, professing to have examined them with CARE, and having certainly examined them with JEALOUSY, maintain that the revocation, on the 1st of November, was made to depend by the obvious meaning of those terms, upon a condition precedent which has not been fulfilled, namely—the revocation by Great Britain of her orders in council, including such blockading orders as France complains of as illegal.

If this were even admitted to be so, I am yet to learn upon what grounds of justice the British government could decline to meet, by a similar act on its part, an advance, thus made to it by its adversary in the face of the world, towards a co-operation in the great work of restoring the liberty of the ocean; so far, at least, as respects the orders in council of 1807 and 1809, and such blockades as resemble them. It is not necessary, however, to take this view of the question; for the French revocation turns on no condition precedent, is absolute, precise and unequivocal.

What construction of the document which declares that revocation might be made by determined suspicion and distrust, I have no wish, and am not bound to inquire. Such interpreters would not be satisfied by any form of words, and would be likely to draw the same conclusion from perfect explicitness and studied obscurity. It is enough for me that the fair and natural and necessary import of the paper affords no colour for the interpretation I am about to examine.

The French declaration “that the decrees of Berlin and Milan ARE REVOKED, and that from the 1st of November, they will cease to have any effect,” is precision itself. But they are followed by these words: “*bien entendu qu'en consequence de cette declaration les Anglois revoqueront leurs arrêts du conseil, et renonceront aux nouveaux principes de blocus qu' ils ont voulu etablir, ou BIEN que les Etats Unis, conformément a l'acte que vous venez communiquer, feront respecter leur droits par les Anglois.*”

If these words state any *condition*, they state *two*, the first depending upon Great Britain, the last upon the United States; and as they are put in the disjunctive, it would be

extravagant to hold that the non-performance of one of them is equivalent to the non-performance of both. I shall take for granted, therefore, that the argument against my construction of the duke of Cadore's letter must be moulded into a new form. It must deal with two conditions instead of one, and considering them equally as conditions precedent to be performed (disjunctively) before the day limited for the operative commencement of the French repeal, must maintain that if *neither* of them should be performed before that day, the decrees were not to be revoked, and consequently that, as neither of them *has* been so performed, the decrees are still in force.

If this hypothesis of previous conditions, thus reduced to the only shape it can assume, be proved to be unsound, my construction is at once established; since it is only upon that hypothesis that any doubt can be raised against the exact and perspicuous assurance that the decrees were actually repealed, and that the repeal would become effectual on the first of November. This hypothesis is proved to be unsound, by the following consideration.

It has clearly no foundation in the phraseology of the paper, which does not contain a syllable to put any condition before the repeal. The repeal is represented as a step already taken, to have effect on a day specified. Certain consequences are, indeed, declared to be expected from this proceeding; but no day is given, either expressly or by implication, within which they are to happen. It is not said, "*bien entendu que les Anglois auront revoque,*" &c. but "*que les Anglois revoqueront,*" &c. indefinitely as to time.

The notion of conditions precedent is, therefore, to say the least of it, perfectly gratuitous. But it is also absurd. It drives us to the conclusion, that a palpable and notorious impossibility was intended to be prescribed as a condition, in a paper which they who think it was meant to deceive, must admit was meant to be plausible.

It was a palpable and notorious impossibility, that the United States should, before the first of November, execute *any condition*, no matter what the nature of it, the performance of which was to follow the ascertained failure of a condition to be executed by Great Britain *at any time* before the same first of November. That the act expected from the United States was to be consequent upon the failure of the *other*, is apparent. It is also apparent, that upon any

interpretation which would make the act of Great Britain a *condition precedent to the French repeal*, and consequently, precedent to the first of November (when the repeal was, if ever, to take effect) that condition could not be said to have failed before the whole *period*, from the fifth of August to the first of November, had elapsed. But if Great Britain had the whole time, within which to elect the course which she would pursue, what opportunity would be left to the United States (equally bound, upon this idea of conditions precedent, to act their part within the same period) to become acquainted with that election, and to decide upon and take their own course in consequence; to say nothing of the transmission of such intelligence of it to Europe as would be indispensable to the efficacy of the conditional revocation.

This general view would alone be sufficient to discredit the arbitrary construction under consideration. But it will be more completely exposed by an explanation of the nature of the act, which the latter professes to expect from the United States, in case Great Britain should omit to revoke. This act is the *revival* of the non-intercourse law against England, France remaining exempt from it, as well as from the provisions of the subsequent law, commonly called the non-intercourse act. Now, if it is too plain, upon the face of the last mentioned law (to which the letter expressly refers) to escape the most negligent and unskilful observer, that this revival could not, by any industry or chance, be accomplished before the time fixed for the cessation of the French decrees, or even for a considerable time afterwards, it certainly cannot be allowable to assume, that the revival was required by the letter (whatever was the *object* of the writer or his government) to precede the cessation. And if this was not required, it is incontrovertible that the cessation would, by the terms of the letter, take place on the appointed day, whether any of the events disjunctively specified had intervened or not.

The first step towards a revival of the non-intercourse against England would be the proclamation of the President, that France had so revoked or modified her edicts, as that they ceased to violate the neutral commerce of the United States. But the letter of monsieur Champagny left the decrees, as it found them, up to the first of November, and consequently *up to that day* it could not, for any thing

contained in that letter, he said that the rights of American commerce were no longer infringed by them. A prospective proclamation, that they *would* cease to violate those rights, might, perhaps, be issued; but it could scarcely have any substantial operation, either in favour of France or to the prejudice of England, until the epoch to which it looked had arrived.

Let it be admitted, however, that all physical and legal obstacles to the issuing, *before the first of November*, of a proclamation, to take effect immediately, were out of the way—how would such a proceeding fulfil, of itself, the expectation that the United States would, before the first of *November*, “cause their rights to be respected by the English” in the mode pointed out in the letter, namely, by the enforcement of the non-intercourse law? The proclamation would work no direct or immediate consequence against England. Three months, from its date, must pass away before the non-intercourse law could revive against her; and when it did so, the revival would not be the effect of the proclamation, but of the continued adherence of England to her obnoxious system. Thus, even if a proclamation, effectual from its date, had been issued by the President on the day when the French declaration of repeal came to the hands of the American minister at Paris, the intercourse between the United States and Great Britain would, on the first of November, have remained in the same condition in which it was found in August. As all this was well understood by the government of France, the conclusion is, that its minister, professing too to have the American law before him and to expect only what was *conformable with that law*, did not intend to require the revival of the non-intercourse against England as a *condition* to be performed before the first of November.

It is worthy of remark, as introductory to another view of this subject, that even they who conclude that the repeal of the French decrees has failed, are not backward to ascribe to the French declaration a purpose utterly inconsistent with that conclusion. They suppose the purpose to have been to affect the existing relations between America and England, by the only means which the declaration states, the act of non-intercourse. And it is certain that unless England should abandon particular parts of her system, this *was* the result avowedly in view, and meant

to be accomplished. But there could be no hope of such a result without a previous effectual relinquishment of the French decrees. A case could not otherwise be made to exist (as the duke of Cadore was aware) for such an operation of the American law. To put the law before the revocation of the edicts was impossible. With the law in his hand it would have been miraculous ignorance not to know that it was the exact reverse of this which his paper must propose. He would derive this knowledge, not from that particular law only, but from the whole tenour and spirit of American proceedings, in that painful and anomalous dilemma, in which Great Britain and France, agreeing in nothing else, had recently combined to place the maritime interests of America. He would collect from those proceedings that, while those conflicting powers continued to rival each other in their aggressions upon neutral rights, the government of the United States would oppose itself impartially to both. The French declaration, then, had either no meaning at all, or it meant to announce to general Armstrong a positive revocation of the French edicts.

I should only fatigue your lordship by pursuing farther a point so plain and simple. I will therefore merely add to what I have already said on this branch of the subject, that the strong and unqualified communication from general Armstrong to me, mentioned in the commencement of this letter, and corroborated by subsequent communications (one of which I now lay before you) may perhaps, without any great effort of courtesy, be allowed to contain that "authentick intelligence" which your lordship is in search of. He could scarcely have been free from doubt if the occasion was calculated to suggest it, and if he had really doubted, would hardly have spoken to me with the confidence of conviction.

It only remains to speak of the *practical effect* of the French repeal. And here your lordship must suffer me to remind you that the orders of England in 1807, did not wait for the practical effect of the *Berlin* decree, nor linger till the obscurity, in which the meaning of that decree was supposed to be involved, should be cleared away by time or explanation. They came promptly after the decree itself, while it was not only ambiguous but inoperative, and raised upon an idle prohibition, and a yet more

idle declaration, which France had not attempted to enforce, and was notoriously incapable of enforcing, a vast scheme of oppression upon the seas, more destructive of all the acknowledged rights of peaceful states than history can parallel. This *retaliation*, as it was called, was so rapid that it was felt before the injury was said to have provoked it; and yet, that injury, such as it was, was preceded by the practical assertion, on the part of Great Britain, of new and alarming principles of publick law, in the notification of the blockade of May, 1806, and in the judicial decisions of the year before. To uphold the *retaliatory* orders, every thing was *presumed* with a surprising facility. Not only was an impotent, unexecuted, and equivocal menace presumed to be an active scourge of the commerce of neutral nations, but the acquiescence of those nations was presumed, against the plainest evidence of facts.

The alacrity with which all this was done can never be remembered without regret and astonishment; but our regret and astonishment must increase, if, after four years have been given to the *pernicious innovation*, which these presumptions were to introduce and support, something like the same alacrity should not be displayed in seizing an honourable opportunity of discarding it for ever.

It is not unnatural to imagine that it *will be* discarded with pleasure, *when it is considered*, that having never been effectual as an instrument of hostility, it cannot now lay claim to those *other* recommendations for which it may have heretofore been prized. The orders in council* have passed through some important changes; but they have been steady, as long as it was possible, to the *purpose which first impressed them a character not to be mistaken*.

In their original plan, they comprehended not only France and such allied or dependent powers as had adopted the edict of Berlin, but such other nations as had merely excluded from their ports the commercial flag of England. This prodigious expansion of the system, was far beyond any intelligible standard of *retaliation*; but it soon appeared that neutrals might be permitted to traffick under certain restrictions, with all these different nations, provided

* Of November.

they would submit with a dependence *truly colonial*, to carry on their trade through British ports, and to pay such duties as the British government should think fit to impose, and such charges as British agents and other British subjects might be content to make.

The United States abstained from this *traffick*, in which they could not embark without dishonour; and in 1809, the system shrunk to narrower dimensions, and took the appearance of an absolute prohibition of all commercial intercourse with France, Holland, and the kingdom of Italy.

The prohibition was absolute in appearance, but not in fact. It had lost something of former exuberance, but nothing of former pliancy, and in the event was seen to yield to the demands of *one* trade, while it prevented every other.

Controlled and relaxed and managed by *licenses*, it did not, after a brief exhibition of impartial sternness, affect to "distress the enemy" by the occlusion of his ports, when the commerce of *England* could advantageously find its way to them. At length however, this convenience seems to be enjoyed no longer, and the orders in council may apparently be now considered (if indeed they ought not always to have been considered) as affecting England with a loss as heavy as that which they inflict on those whose rights they violate. In such circumstances, if it be too much to expect the *credulity* of 1807, it may yet be hoped, that the evidence of the *practical effect* of the French repeal need not be very strong to be satisfactory. It is however as strong as the nature of such a case will admit, as a few observations will show.

On such an occasion it is no paradox to say, that the want of evidence is itself evidence: That certain decrees are not in force, is proved by the absence of such facts as would appear if they *were* in force. Every motive which can be conjectured to have led to the repeal of the edicts invites to the full execution of that repeal, and no motive can be imagined for a different course. These considerations are alone conclusive.

But farther, it is known that American vessels bound confessedly to England, have, before the 1st of November, been visited by French privateers, and suffered to pass upon the foundation of the prospective repeal of the decree

of Berlin, and the proximity of the day when it would become an actual one.

If there are not even stronger facts to show that the decree of *Milan* is also withdrawn, your lordship can be at no loss for the reason. It cannot be proved that an American vessel is practically held by France. Not to be *denationalized* by British visitation, because your cruisers visit only to *capture*, and compel the vessel visited to terminate her voyage not in France, but in England. You will not ask for the issue of an experiment which yourselves intercept, nor complain that you have not received evidence, which is not obtained because you have rendered it impossible. The vessel which formed the subject of my note of the 8th instant, and another more recently seized as prize, would, if they had been suffered, *as they ought*, to resume their voyages after having been stopped and examined by English cruisers, have furnished on that point unanswerable proof; and I have reason to know, that precise offers have been made to the British government to put to a practical test the disposition of France in this respect, and that those offers have been refused. Your cruisers however have not been able to visit all American vessels bound to France, and it is understood, that such as have arrived have been received with friendship.

I cannot quit this last question without entering my protest against the pretension of the British government to postpone the justice which it owes to my government and country, for this tardy investigation of consequences. I am not able to comprehend upon what the pretension rests, nor to what limits the investigation can be subjected. If it were even admitted that France was more emphatically bound to repeal her almost nominal decrees than Great Britain to repeal her substantial orders (which will not be admitted) what more can reasonably be required by the latter than has been done by the former? The decrees are officially declared by the government of France to be repealed. They were ineffectual as a material prejudice to England before the declaration, and must be ineffectual since. There is therefore nothing of substance for this dilatory inquiry, which if once begun may be protracted without end, or at least till the hour for just and *prudent* decision has passed. But, if there were room to apprehend that the repealed de-

erees might have some operation in case the orders in council were withdrawn, still, as there is no sudden and formidable peril to which Great Britain could be exposed by that operation, there can be no reason for declining to act at once upon the declaration of France, and to leave it to the future to try its sincerity, if that sincerity be suspected.

I have thus disclosed to your lordship, with that frankness which the times demand, my view of a subject deeply interesting to our respective countries. The part which Great Britain may act on this occasion cannot fail to have important and lasting consequences, and I can only wish that they may be good.

By giving up her orders in council and the *blockades*, to which my letter of the 21st of September relates, she has nothing to lose in character or strength. By adhering to them she will not only be *unjust to others* but *unjust to herself*.

I have the honour to be, &c.

WM. PINKNEY,

The Most Noble the Marquis Wellesley, &c. &c. &c.

(No. 4.)

Great Cumberland Place, Dec. 3, 1810.

MY LORD,—I have the honour to represent to you that an American vessel, (the *Fox*) proceeding with an American cargo from a port of the United States to Cherbourg, in France, in the confidence that the repeal of the decrees of Berlin and Milan had, in conformity with repeated pledges and the obvious demands of justice, been followed by the revocation of the British orders in council, has been captured since the first of last month by an English frigate, for an alleged breach of those orders, and brought into Plymouth, and since proceeded against in the high court of admiralty as prize of war.

It is my duty to require that this vessel and her cargo may be restored, as speedily as possible, to their rightful owner; that she may be left at full liberty to resume the lawful voyage in which she was engaged, and that effectual measures may be adopted with as little delay as circumstances will permit, for the prevention of similar interruptions in future.

VOL. VIII.

6

I understand that the captors, in this case, are likely to be urgent for condemnation; and that the orders in council will, if unrepealed, be considered by the court as imposing upon it a necessity to pronounce such a sentence. I am further informed that the cause may be heard, if the captors press it, on or very soon after Tuesday next. I trust, however, that the necessary steps will be taken by the British government for preventing the signal injustice and the many embarrassments that could not fail to result from such an adjudication.

I have the honour to be, &c.

WM. PINKNEY.

Mr. Pinkney to the Secretary of State. London, Dec. 23, 1810.

SIR,—I received on the 20th instant, from Liverpool, your letter of the 19th of October, the only one yet received of a date subsequent to the 17th of July.

My letter of the 14th of November will show that I had myself resolved upon the course of proceeding which the last paragraph of your letter indicates. I now wait only for the restoration of the capacity of the government.

I presume that my note to lord Wellesley of the 21st of September, will be considered as having anticipated such parts of your letter as relate to blockades. No answer of any sort has been given to that note, but I will not fail to take the first occasion to reinforce it, by enlarging on the considerations to which you allude. In my opinion the subject cannot be too much pressed, nor the importance of it exaggerated. If such blockades are to continue, we shall have got rid of the orders of 1807 and 1809 in vain.

You will perceive, that in my note above mentioned, I undertook to mention the blockade of the whole island of Zealand, as one of those paper blockades to which the United States objected; that in my note of the 25th of August, that blockade was comprehended under the general description of such orders as were "*analogous to*" the orders in council of 1807 and 1809; and that in my late note (of the 10th instant,) I have urged the revocation of all the blockades to which my note of the 21st of September related.

I had no instructions to warrant me in representing any other blockade than that of May, 1806, as indispensable in the view of our laws concerning commercial intercourse with Great Britain and France. I have endeavoured, however, so to shape my different notes to lord Wellesley, as that when taken together they may be considered to embrace the whole of the paper blockades for *every purpose*, or only for particular purposes, as future instructions or convenience might require.

Upon the subject of impressments I need not say any thing, as the affair of the Chesapeake has not been adjusted. For other matters, I refer you to the newspapers.

I have the honour to be, &c.

WM. PINKNEY.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO BOTH
HOUSES OF CONGRESS. NOV. 5, 1811.

Fellow Citizens of the Senate
and of the House of Representatives,

In calling you together, sooner than a separation from your homes would otherwise have been required, I yielded to considerations drawn from the posture of our foreign affairs; and in fixing the present, for the time of your meeting, regard was had to the probability of further developments of the policy of the belligerent powers towards this country, which might the more unite the national councils, in the measures to be pursued.

At the close of the last session of Congress, it was hoped that the successive confirmations of the extinction of the French decrees, so far as they violated our neutral commerce, would have induced the government of Great Britain to repeal its orders in council; and thereby authorize a removal of the existing obstructions to her commerce with the United States.

Instead of this reasonable step towards satisfaction and friendship between the two nations, the orders were, at a

moment when least to have been expected, put into more rigorous execution; and it was communicated through the British envoy just arrived, that, whilst the revocation of the edicts of France, as officially made known to the British government, was denied to have taken place; it was an indispensable condition of the repeal of the British orders, that commerce should be restored to a footing that would admit the productions and manufactures of Great Britain, when owned by neutrals, into markets shut against them by her enemy: the United States being given to understand that, in the mean time, a continuance of their non-importation act would lead to measures of retaliation.

At a later date, it has indeed appeared, that a communication to the British government, of fresh evidence of the repeal of the French decrees against our neutral trade, was followed by an intimation, that it had been transmitted to the British plenipotentiary here, in order that it might receive full consideration in the depending discussions. This communication appears not to have been received: But the transmission of it hither, instead of founding on it an actual repeal of the orders, or assurances that the repeal would ensue, will not permit us to rely on any effective change in the British cabinet. To be ready to meet with cordiality satisfactory proofs of such a change, and to proceed, in the mean time, in adapting our measures to the views which have been disclosed through that minister, will best consult our whole duty.

In the unfriendly spirit of those disclosures, indemnity and redress for other wrongs, have continued to be withheld; and our coasts, and the mouths of our harbours, have again witnessed scenes, not less derogatory to the dearest of our national rights, than vexatious to the regular course of our trade.

Among the occurrences produced by the conduct of British ships of war hovering on our coasts was an encounter between one of them, and the American frigate, commanded by captain Rodgers, rendered unavoidable on the part of the latter, by a fire, commenced without cause, by the former; whose commander is, therefore, alone chargeable with the blood unfortunately shed in maintaining the honour of the American flag. The proceedings of a court of inquiry, requested by captain Rod-

gers, are communicated; together with the correspondence relating to the occurrence, between the Secretary of State and his Britannick majesty's envoy. To these are added, the several correspondences which have passed on the subject of the British orders in council; and to both, the correspondence relating to the Floridas, in which Congress will be made acquainted with the interposition which the government of Great Britain has thought proper to make against the proceedings of the United States.

The justice and fairness which have been evinced on the part of the United States, towards France, both before and since the revocation of her decrees, authorized an expectation that her government would have followed up that measure, by all such others as were due to our reasonable claims, as well as dictated by its amicable professions. No proof, however, is yet given, of an intention to repair the other wrongs done to the United States; and particularly to restore the great amount of American property seized and condemned under edicts, which, though not affecting our neutral relations, and therefore not entering into questions between the United States and other belligerents, were nevertheless, founded in such unjust principles, that the reparation ought to have been prompt and ample.

In addition to this, and other demands of strict right, on that nation, the United States have much reason to be dissatisfied with the rigorous and unexpected restrictions, to which their trade with the French dominions has been subjected; and which, if not discontinued, will require at least corresponding restrictions on importations from France into the United States.

On all those subjects, our minister plenipotentiary, lately sent to Paris, has carried with him the necessary instructions; the result of which will be communicated to you, and by ascertaining the ulterior policy of the French government towards the United States, will enable you to adapt to it, that of the United States towards France.

Our other foreign relations remain without unfavourable changes. With Russia, they are on the best footing of friendship. The ports of Sweden have afforded proofs of friendly dispositions towards our commerce, in the councils of that nation also. And the information from our special minister to Denmark, shows that the mission

had been attended with valuable effects to our citizens, whose property had been so extensively violated and endangered by cruisers under the Danish flag.

Under the ominous indications which commanded attention, it became a duty to exert the means committed to the executive department, in providing for the general security. The works of defence on our maritime frontier have accordingly been prosecuted, with an activity leaving little to be added for the completion of the most important ones; and, as particularly suited for co-operation in emergencies, a portion of the gun-boats have, in particular harbours, been ordered into use. The ships of war before in commission, with the addition of a frigate, have been chiefly employed as a cruising guard to the rights of our coast. And such a disposition has been made of our land forces, as was thought to promise the services most appropriate and important. In this disposition is included a force, consisting of regulars and militia, embodied in the Indiana territory, and marched towards our North Western frontier. This measure was made requisite by several murders and depredations committed by Indians; but more especially by the menacing preparations and aspect of a combination of them on the Wabash under the influence and direction of a fanatic of the Shawanese tribe. With these exceptions the Indian tribes retain their peaceable dispositions towards us, and their usual pursuits.

I must now add, that the period is arrived, which claims from the legislative guardians of the national rights a system of more ample provisions for maintaining them. Notwithstanding the scrupulous justice, the protracted moderation, and the multiplied efforts on the part of the United States, to substitute, for the accumulating dangers to the peace of the two countries, all the mutual advantages of re-established friendship and confidence; we have seen that the British cabinet perseveres, not only in withholding a remedy for other wrongs, so long and so loudly calling for it; but in the execution, brought home to the threshold of our territory, of measures which, under existing circumstances, have the character, as well as the effect, of war on our lawful commerce.

With this evidence of hostile inflexibility, in trampling on rights which no independent nation can relinquish,

Congress will feel the duty of putting the United States into an armour, and an attitude demanded by the crisis, and corresponding with the national spirit and expectations.

I recommend, accordingly, that adequate provision be made for filling the ranks and prolonging the enlistments of the regular troops; for an auxiliary force, to be engaged for a more limited term; for the acceptance of volunteer corps, whose patriotick ardour may court a participation in urgent services; for detachments, as they may be wanted, of other portions of the militia; and for such a preparation of the great body, as will proportion its usefulness to its intrinsic capacities. Nor can the occasion fail to remind you of the importance of those military seminaries, which, in every event, will form a valuable and frugal part of our military establishment.

The manufacture of cannon and small arms has proceeded with due success: and the stock and resources of all the necessary munitions are adequate to emergencies. It will not be inexpedient, however, for Congress to authorize an enlargement of them.

Your attention will of course be drawn to such provisions, on the subject of our naval force, as may be required for the services to which it may be best adapted. I submit to Congress the seasonableness, also, of an authority to augment the stock of such materials, as are imperishable in their nature, or may not at once be attainable.

In contemplating the scenes which distinguish this momentous epoch, and estimating their claims to our attention, it is impossible to overlook those developing themselves among the great communities which occupy the southern portion of our own hemisphere, and extend into our neighbourhood. An enlarged philanthropy, and an enlightened forecast, concur in imposing on the national councils an obligation to take a deep interest in their destinies; to cherish reciprocal sentiments of good will; to regard the progress of events; and not to be unprepared for whatever order of things may be ultimately established.

Under another aspect of our situation, the early attention of Congress will be due to the expediency of further guards against evasions and infractions of our commercial laws. The practice of smuggling, which is odious every

where, and particularly criminal in free governments, where, the laws being made by all for the good of all, a fraud is committed on every individual as well as on the state, attains its utmost guilt, when it blends, with a pursuit of ignominious gain a treacherous subserviency, in the transgressors, to a foreign policy adverse to that of their own country. It is then that the virtuous indignation of the publick should be enabled to manifest itself, through the regular animadversions of the most competent laws.

To secure greater respect to our mercantile flag, and to the honest interests which it covers; it is expedient also, that it be made punishable in our citizens to accept licenses from foreign governments, for a trade unlawfully interdicted by them to other American citizens; or to trade under false colours or papers of any sort.

A prohibition is equally called for, against the acceptance, by our citizens, of special licenses, to be used in a trade with the United States; and against the admission into particular ports of the United States, of vessels from foreign countries, authorized to trade with particular ports only.

Although other subjects will press more immediately on your deliberations, a portion of them cannot but be well bestowed on the just and sound policy of securing to our manufactures the success they have attained, and are still attaining, in some degree, under the impulse of causes not permanent; and to our navigation, the fair extent, of which it is at present abridged by the unequal regulations of foreign governments.

Besides the reasonableness of saving our manufactures from sacrifices which a change of circumstances might bring on them, the national interest requires, that, with respect to such articles, at least, as belong to our defence, and our primary wants, we should not be left in unnecessary dependence on external supplies. And whilst foreign governments adhere to the existing discriminations in their ports against our navigation, and an equality or lesser discrimination is enjoyed by their navigation, in our ports, the effect cannot be mistaken, because it has been seriously felt by our shipping interests; and in proportion as this takes place, the advantages of an independent conveyance of our products to foreign markets, and of a growing body of mariners, trained by their occupations for the service of their country in times of danger, must be diminished.

The receipts into the treasury, during the year ending on the thirtieth of September last, have exceeded thirteen millions and a half of dollars, and have enabled us to defray the current expenses, including the interest on the publick debt, and to reimburse more than five millions of dollars of the principal, without recurring to the loan authorized by the act of the last session. The temporary loan obtained in the latter end of the year one thousand eight hundred and ten, has also been reimbursed, and is not included in that amount.

The decrease of revenue, arising from the situation of our commerce and the extraordinary expenses which have and may become necessary, must be taken into view, in making commensurate provisions for the ensuing year. And I recommend to your consideration, the propriety of insuring a sufficiency of annual revenue, at least to defray the ordinary expenses of government, and to pay the interest on the publick debt, including that on new loans which may be authorized.

I cannot close this communication without expressing my deep sense of the crisis in which you are assembled, my confidence in a wise and honourable result to your deliberations, and assurances of the faithful zeal with which my co-operating duties will be discharged; invoking, at the same time, the blessing of Heaven on our beloved country, and on all the means that may be employed, in vindicating its rights and advancing its welfare.

JAMES MADISON.

DOCUMENTS

RELATIVE TO THE BRITISH ORDERS IN COUNCIL, ACCOMPANYING THE PRESIDENT'S MESSAGE TO CONGRESS OF NOV. 5, 1811.

Mr. Foster to Mr. Monroe. Washington, July 2, 1811.

SIR,—I have the honour to inform you that I have received the special commands of his royal highness, the prince regent, acting in the name and on the behalf of his

VOL. VIII.

7

majesty, to make an early communication to you of the sentiments which his royal highness was pleased, on the part of his majesty, to express to Mr. Pinkney, upon the occasion of his audience of leave.

His royal highness signified to Mr. Pinkney, the deep regret with which he learnt that Mr. Pinkney conceived himself to be bound by the instructions of his government to take his departure from England.

His royal highness informed Mr. Pinkney that one of the earliest acts of his government, in the name and on the behalf of his majesty, was to appoint an envoy extraordinary and minister plenipotentiary to the government of the United States ; and added, that this appointment had been made in the spirit of amity, and with a view of maintaining the subsisting relations of friendship between the two countries.

His royal highness further declared to Mr. Pinkney that he was most sincerely and anxiously desirous, on the part of his majesty, to cultivate a good understanding with the United States by every means consistent with the preservation of the maritime rights and interests of the British empire.

His royal highness particularly desired that Mr. Pinkney would communicate these declarations to the United States in the manner which might appear best calculated to satisfy the President of his royal highness' solicitude to facilitate an amicable discussion with the government of the United States upon every point of difference which had arisen between the two governments.

I have the honour to be, &c. &c.

AUG. J. FOSTER.

Hon. James Monroe, &c.

Mr. Foster to Mr. Monroe. Washington, July 3, 1811.

SIR,—I have had the honour of stating to you verbally the system of defence to which his majesty has been compelled to resort for the purpose of protecting the maritime rights and interests of his dominions, against the new description of warfare that has been adopted by his enemies. I have presented to you the grounds upon which his majesty finds himself still obliged to continue that system, and

I conceive that I shall best meet your wishes as expressed to me this morning, if, in a more formal shape, I should lay before you the whole extent of the question as it appears to his majesty's government to exist between Great Britain and America.

I beg leave to call your attention, sir, to the principles on which his majesty's orders in council were originally founded. The decree of Berlin was directly and expressly an act of war, by which France prohibited all nations from trade or intercourse with Great Britain, under peril of confiscation of their ships and merchandise ; although France had not the means of imposing an actual blockade in any degree adequate to such a purpose. The immediate and professed object of this hostile decree was the destruction of all British commerce, through means entirely unsanctioned by the law of nations, and unauthorized by any received doctrine of legitimate blockade.

This violation of the established law of civilized nations in war would have justified Great Britain in retaliating upon the enemy, by a similar interdiction of all commerce with France, and with such other countries as might co-operate with France in her system of commercial hostility against Great Britain.

The object of Great Britain, was not, however, the destruction of trade, but its preservation under such regulations as might be compatible with her own security, at the same time that she extended an indulgence to foreign commerce, which strict principles would have entitled her to withhold. The retaliation of Great Britain was not, therefore, urged to the full extent of her right ; our prohibition of French trade was not absolute, but modified, and in return for the absolute prohibition of all trade with Great Britain, we prohibited not all commerce with France, but all such commerce with France as should not be carried on through Great Britain.

It was evident that this system must prove prejudicial to neutral nations: this calamity was foreseen, and deeply regretted. But the injury to the neutral nation arose from the aggression to France, which had compelled Great Britain in her own defence to resort to adequate retaliatory measures of war. The operation on the American commerce of those precautions which the conduct of France had rendered indispensable to our security, is

therefore to be ascribed to the unwarrantable aggression of France, and not to those proceedings on the part of Great Britain, which that aggression had rendered necessary and just.

The object of our system was merely to counteract an attempt to crush the British trade. Great Britain endeavoured to permit the continent to receive as large a portion of commerce as might be practicable through Great Britain; and all her subsequent regulations, and every modification of her system by new orders or modes of granting or withholding licenses, have been calculated for the purpose of encouraging the trade of neutrals through Great Britain, whenever such encouragement might appear advantageous to the general interests of commerce, and consistent with the publick safety of the nation.

The justification of his majesty's orders in council, and the continuance of that defence, have always been rested upon the existence of the decrees of Berlin and Milan, and on the perseverance of the enemy in the system of hostility which has subverted the rights of neutral commerce on the continent; and it has always been declared on the part of his majesty's government, that whenever France should have effectually repealed the decrees of Berlin and Milan, and should have restored neutral commerce to the condition in which it stood previously to the promulgation of those decrees, we should immediately repeal our orders in council.

France has asserted that the decree of Berlin was a measure of just retaliation on her part, occasioned by our previous aggression; and the French government has insisted that our system of blockade, as it existed previously to the decree of Berlin, was a manifest violation of the received law of nations: we must, therefore, sir, refer to the articles of the Berlin decree to find the principles of our system of blockade which France considers to be new, and contrary to the law of nations.

By the fourth and eighth articles it is stated as a justification of the French decree, that Great Britain "extends to unfortified towns and commercial ports, to harbours, and to the mouths of rivers, those rights of blockade which, by reason and the usage of nations, are applicable only to fortified places; and that the rights of blockade

ought to be limited to fortresses really invested by a sufficient force."

It is added in the same articles, that Great Britain "has declared places to be in a state of blockade before which she has not a single ship of war, and even places which the whole British force would be insufficient to blockade, entire coasts and a whole empire."

Neither the practice of Great Britain nor the law of nations has ever sanctioned the rule now laid down by France, that no place, excepting fortresses in a complete state of investiture, can be deemed lawfully blockaded by sea.

If such a rule were to be admitted, it would become nearly impracticable for Great Britain to attempt the blockade of any port of the continent; and our submission to this perversion of the law of nations, while it would destroy one of the principal advantages of our naval superiority, would sacrifice the common rights and interests of all maritime states.

It was evident that the blockade of May, 1806, was the principal pretended justification of the decree of Berlin, though neither the principles on which that blockade was founded, nor its practical operation, afforded any colour for the proceedings of France.

In point of date the blockade of May, 1806, preceded the Berlin decree; but it was a just and legal blockade according to the established law of nations, because it was intended to be maintained, and was actually maintained, by an adequate force appointed to guard the whole coast described in the notification, and consequently to enforce the blockade.

Great Britain has never attempted to dispute that in the ordinary course of the law of nations, no blockade can be justifiable or valid unless it be supported by an adequate force destined to maintain it, and to expose to hazard all vessels attempting to evade its operation. The blockade of May, 1806, was notified by Mr. Secretary Fox, on this clear principle; nor was that blockade announced until he had satisfied himself, by a communication with his majesty's board of admiralty, that the admiralty possessed the means and would employ them, of watching the whole coast from Brest to the Elbe, and of effectually enforcing the blockade.

The blockade of May, 1806, was therefore (according to the doctrine maintained by Great Britain,) just and lawful in its origin, because it was supported both in intention and fact by an adequate naval force. This was the justification of that blockade, until the period of time when the orders in council were issued.

The orders in council were founded on a distinct principle; that of defensive retaliation. France had declared a blockade of all the ports and coasts of Great Britain, and her dependencies, without assigning, or being able to assign any force to support that blockade. Such an act of the enemy would have justified a declaration of the blockade of the whole coast of France, even without the application of any particular force to that service. Since the promulgation of the orders in council, the blockade of May, 1806, has been sustained and extended, by the more comprehensive system of defensive retaliation, on which those regulations are founded. But if the orders in council should be abrogated, the blockade of May, 1806, could not continue under our construction of the law of nations, unless that blockade should be maintained by a due application of an adequate naval force.

America appears to concur with France, in asserting that Great Britain was the original aggressor in the attack on neutral rights, and has particularly objected to the blockade of May, 1806, as an obvious instance of that aggression on the part of Great Britain.

Although the doctrines of the Berlin decree, respecting the rights of blockade, are not directly asserted by the American government, Mr. Pinkney's correspondence would appear to countenance the principles on which those doctrines are founded. The objection directly stated by America against the blockade of May, 1806, rests on a supposition that no naval force which Great Britain possessed, or could have employed for such a purpose, could have rendered that blockade effectual, and that therefore it was necessarily irregular, and could not possibly be maintained in conformity to the law of nations.

Reviewing the course of this statement, it will appear, that the blockade of May, 1806, cannot be deemed contrary to the law of nations, either under the objections urged by the French, or under those declared, or insinuated by the American government, because that blockade was

maintained by a sufficient naval force : that the decree of Berlin was not, therefore, justified either under the pretexts alleged by France, or under those supported by America ; that the orders in council were founded on a just principle of defensive retaliation, against the violation of the law of nations, committed by France in the decree of Berlin ; that the blockade of May, 1806, is now included in the more extensive operation of the orders in council ; and lastly, that the orders in council will not be continued beyond the effectual duration of the hostile decrees of France, nor will the blockade of May, 1806, continue after the repeal of the orders in council, unless his majesty's government shall think fit to sustain it by the special application of a sufficient naval force. This fact will not be suffered to remain in doubt, and if the repeal of the orders in council should take place, the intention of his majesty's government respecting the blockade of May, 1806, will be notified at the same time.

I need not recapitulate to you the sentiments of his majesty's government, so often repeated, on the subject of the French minister's note to general Armstrong, dated the 5th of last August. The studied ambiguity of that note has since been amply explained by the conduct and language of the government of France, of which one of the most remarkable instances is to be found in the speech of the chief of the French government on the 17th of last month, to certain deputies from the free cities of Hamburg, Bremen and Lubeck, wherein he declares that the Berlin and Milan decrees shall be the publick code of France as long as England maintains her orders in council of 1806 and 1807. Thus pronouncing as plainly as language will admit, that the system of violence and injustice, of which he is the founder, will be maintained by him until the defensive measures of retaliation to which they gave rise, on the part of Great Britain, shall be abandoned.

If other proofs were necessary to show the continued existence of those obnoxious decrees, they may be discovered in the imperial edict dated at Fontainebleau in Oct. 19, 1810, that monstrous production of violence, in which they are made the basis of a system of general and unexampled tyranny and oppression over all countries subject to, allied with, or within reach of the power of France : in the report of the French minister for foreign affairs, dated

last December, and in the letter of the French minister of justice to the president of the council of prizes. To this latter, sir, I would wish particularly to invite your attention; the date is the 25th of December; the authority it comes from most unquestionable; and you will there find, sir, the duke of Massa, in giving his instructions to the council of prizes, in consequence of the President of the United States' proclamation of Nov. 3d, most cautiously avoiding to assert that the French decrees were repealed, and ascribing not to such repeal, but to the ambiguous passage which he quotes at length from M. Champagny's letter of August fifth, the new attitude taken by America; and you will also find an evidence in the same letter of the continued capture of American ships after November 1st, and under the Berlin and Milan decrees, having been contemplated by the French government; since there is a special direction given for judgment on such ships being suspended in consequence of the American proclamation, and for their being kept as pledges for its enforcement.

Can then, sir, those decrees be said to have been repealed at the period when the proclamation of the President of the United States appeared, or when America enforced her non-importation act against Great Britain? Are they so at this moment? To the first question the state papers which I have referred to, appear to give a sufficient answer: for even supposing that the repeal had since taken place, it is clear that on November 3d, there was no question as to that not being then the case; the capture of the ship *New Orleans Packet*, seized at Bordeaux, and of the *Grace Ann Greene*, seized at or carried into Marseilles, being cases arising under the French decrees of Berlin and Milan, as is very evident. Great Britain might, therefore, complain of being treated with injustice by America, even supposing that the conduct of France had since been unequivocal.

America contends that the French decrees are revoked as it respects her ships upon the high seas, and you, sir, inform me that the only two American ships taken under their maritime operation, as you are pleased to term it, since November 1st, have been restored; but may not they have been restored in consequence of the satisfaction felt in France at the passing of the non-importation act in the American Congress, an event so little to be expected; for

otherwise, why, having been captured in direct contradiction to the supposed revocation, why were they not restored immediately?

The fears of the French navy, however, prevent many cases of the kind occurring on the ocean under the decrees of Berlin and Milan; but the most obnoxious and destructive parts of those decrees are exercised with full violence, not only in the ports of France, but in those of all other countries to which France thinks she can commit injustice with impunity.

Great Britain has a right to complain that neutral nations should overlook the very worst features of those extraordinary acts, and should suffer their trade to be made a medium of an unprecedented, violent and monstrous system of attack upon her resources; a species of warfare unattempted by any civilized nation before the present period. Not only has America suffered her trade to be moulded into the means of annoyance to Great Britain under the provisions of the French decrees, but construing those decrees as extinct upon a deceitful declaration of the French cabinet, she has enforced her non-importation act against Great Britain.

Under these circumstances I am instructed by my government to urge to that of the United States, the injustice of thus enforcing that act against his majesty's dominions; and I cannot but hope that a spirit of justice will induce the United States' government to re-consider the line of conduct they have pursued, and at least to re-establish their former state of strict neutrality.

I have only to add, sir, that on my part, I shall ever be ready to meet you on any opening which may seem to afford a prospect of restoring complete harmony between the two countries, and that it will, at all times, give me the greatest satisfaction to treat with you on the important concerns so interesting to both.

I have the honour to be, &c.

AUG. J. FOSTER.

To the Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster. Department of State, July 6, 1811.

SIR,—I have had the honour to receive your letter of the 2d instant, in which you express the regret of his royal highness, the prince regent, at the departure of the American minister from Great Britain, and state that it was one of the first acts of his government to appoint an envoy extraordinary and minister plenipotentiary to the government of the United States, with a view of maintaining the subsisting relations of friendship between the two countries, and that he was solicitous to facilitate an amicable discussion with the government of the United States upon every point of difference which had arisen between the two governments.

I am instructed by the President to acknowledge to you the great satisfaction which he has derived from the communication which you have made of the disposition of his royal highness the prince regent, to cultivate friendship with the United States, and to assure you that the prompt and friendly measure which he adopted, by the appointment of an envoy extraordinary and minister plenipotentiary to this country, to maintain the relations of friendship and facilitate an amicable discussion on every point of difference that had arisen between the two governments, is considered as a favourable and interesting proof of that disposition.

I am also instructed by the President to state his ready disposition to meet, in a similar spirit, these frank and friendly assurances of the prince regent, and that nothing will be wanting on his part, consistent with the rights of the United States, that may be necessary to promote the re-establishment, in all respects, of that good understanding between the two countries, which he considers to be highly important to the interests of both.

Permit me to add, sir, that if, as the organ of my government, I can be, in any degree, instrumental, in concert with you, in promoting such a result, I shall derive from it a very great and sincere satisfaction.

I have the honour to be, &c.

JAMES MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

Mr. Foster to Mr. Monroe. Washington, July 7, 1811.

SIR,—I beg leave to acknowledge the receipt of your letter dated yesterday, in answer to mine of the 2d instant, and to assure you that it gives me very sincere pleasure to have to transmit, for the purpose of being laid before his royal highness the prince regent, acting in the name and on the behalf of his majesty, so satisfactory a testimony of the amicable manner in which the President of the United States has received the instances and assurances of a friendly disposition on the part of his royal highness towards the United States, which, by command of his royal highness, I had the honour to communicate to the President through you.

The assurances which you have added, sir, of the gratification that you would yourself derive if, as the organ of your government, you could be instrumental towards re-establishing a good understanding between both our countries, are too congenial with my own feelings on the subject not to be received with very high satisfaction.

I have the honour to be, &c.

AUG. J. FOSTER.

Hon. James Monroe, Secretary of State.

Mr. Foster to Mr. Monroe. Washington, July 11, 1811.

SIR,—In consequence of our conversation of yesterday, and the observations which you made respecting that part of my letter to you of the 3d instant, wherein I have alluded to the principle, on which his majesty's orders in council were originally founded, I think it right to explain myself, in order to prevent any possible mistake, as to the present situation of neutral trade with his majesty's enemies.

It will only be necessary for me to repeat what has already long since been announced to the American government, namely, that his majesty's order in council of April 26, 1809, superseded those of November, 1807, and relieved the system of retaliation, adopted by his majesty against his enemies, from what was considered in this country as the most objectionable part of it—the option

given to neutrals to trade with the enemies of Great Britain through British ports on payment of a transit duty.

This explanation, sir, will, I trust, be sufficient to do away any impression that you may have received to the contrary, from my observations respecting the effects which his majesty's orders in council originally had on the trade of neutral nations. Those observations were merely meant as preliminary to a consideration of the question now at issue between the two countries.

I have the honour to be, &c.

AUGS. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

Mr. Foster to Mr. Monroe. Washington, July 14, 1811.

SIR,—His majesty's packet boat having been so long detained, and a fortnight having elapsed since my arrival at this capital, his royal highness, the prince regent, will necessarily expect that I should have to transmit to his royal highness some official communication as to the line of conduct the American government mean to pursue. I trust you will excuse me, therefore, sir, if, without pressing for a detailed answer to my note of the 3d instant, I anxiously desire to know from you what is the President's determination with respect to suspending the operation of the late act of Congress prohibiting all importation from the British dominions.

There have been repeated avowals lately made by the government of France, that the decrees of Berlin and Milan were still in full force, and the acts of that government have corresponded with those avowals.

The measures of retaliation pursued by Great Britain against those decrees, are consequently to the great regret of his royal highness still necessarily continued.

I have had the honour to state to you the light in which his royal highness, the prince regent, viewed the proclamation of the President of last November, and the surprise with which he learnt the subsequent measures of Congress against the British trade.

American ships seized under his majesty's orders in council, even after that proclamation appeared, were not immediately condemned, because it was believed that the

insidious professions of France might have led the American government and the merchants of America into an erroneous construction of the intentions of France.

But when the veil was thrown aside, and the French ruler himself avowed the continued existence of his inviolable system, it was not expected by his royal highness that America would have refused to retrace the steps she had taken.

Fresh proofs have since occurred of the resolution of the French government to cast away all consideration of the rights of nations, in the unprecedented warfare they have adopted.

America however still persists in her injurious measures against the commerce of Great Britain, and his royal highness has, in consequence, been obliged to look to means of retaliation against those measures which his royal highness cannot but consider as most unjustifiable.

How desirable would it not be, sir, if a stop could be put to any material progress in such a system of retaliation, which, from step to step, may lead to the most unfriendly situation between the two countries?

His majesty's government will necessarily be guided in a great degree by the contents of my first despatches, as to the conduct they must adopt towards America.

Allow me, then, sir, to repeat my request to learn from you whether I may not convey to his royal highness what I know would be most grateful to his royal highness' feelings, namely, the hope that he may be enabled, by the speedy return of America from her unfriendly attitude towards Great Britain, to forget altogether that he ever was obliged to have any other object in view besides that of endeavouring to promote the best understanding possible between the two countries.

I have the honour to be, &c.

AUG. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

Mr. Monroe to Mr. Foster. Department of State, July 15, 1811.

SIR,—The reasoning and scope of the two letters I have had the honour to receive from you, dated on the 3d and

14th instant, rest essentially on a denial that the French decrees of Berlin and Milan are repealed. These decrees comprise regulations essentially different in their principles ; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

In order to understand distinctly and fully the tenour of your communications, you will pardon the request I have the honour to make of an explanation of the precise extent in which a repeal of the French decrees is made a condition of the repeal of the British orders ; and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to, or from British ports ; or that they have on board British productions or manufactures.

I have the honour to be, &c.

JAS. MONROE.

The Hon. Augustus J. Foster, &c. &c. &c.

Mr. Foster to Mr. Monroe. Washington, July 16, 1811.

SIR,—I had the honour to receive the letter which you addressed to me under yesterday's date, requesting an explanation from me, in consequence of my letters of the 3d and 14th instant, of the precise extent in which a repeal of the French decrees is, by his majesty's government, made a condition of the repeal of the British orders, and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to, or from British ports, or that they have on board British productions or manufactures ; as also, stating that in your view of the French decrees they comprise regulations essentially different in their principles ; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

You will permit me, sir, for the purpose of answering your questions as clearly and concisely as possible, to bring into view the French decrees themselves, together with the official declarations of the French minister which accompanied them.

In the body of those decrees, and in the declarations alluded to, you will find, sir, express avowals that the principles on which they were founded, and the provisions contained in them, are wholly new, unprecedented, and in direct contradiction to all ideas of justice and the principles and usages of all civilized nations.

The French government did not pretend to say that any one of the regulations contained in those decrees, was a regulation which France had ever been in the previous practice of.

They were consequently to be considered, and were indeed allowed by France herself to be, all of them, parts of a new system of warfare, unauthorized by the established laws of nations.

It is in this light in which France herself has placed her decrees, that Great Britain is obliged to consider them.

The submission of neutrals to any regulations made by France, authorized by the laws of nations and practised in former wars, will never be complained of by Great Britain; but the regulations of the Berlin and Milan decrees do, and are declared to, violate the laws of nations and the rights of neutrals, for the purpose of attacking through them the resources of Great Britain. The ruler of France has drawn no distinction between any of them, nor has he declared the cessation of any one of them in the speech which he so lately addressed to the deputation from the free imperial Hanse Towns, which was, on the contrary, a confirmation of them all.

Not until the French decrees, therefore, shall be effectually repealed, and thereby neutral commerce be restored to the situation in which it stood previously to their promulgation, can his royal highness conceive himself justified, consistently with what he owes to the safety and honour of Great Britain, in foregoing the just measures of retaliation which his majesty in his defence was necessitated to adopt against them.

I trust, sir, that this explanation in answer to your inquiries will be considered by you sufficiently satisfactory; should you require any further, and which it may be in my power to give, I shall with the greatest cheerfulness afford it.

I sincerely hope, however, that no further delay will be thought necessary by the President, in restoring the relations of amity which should ever subsist between America and Great Britain, as the delusions attempted by the government of France have now been made manifest, and the perfidious plans of its ruler exposed, by which, while he adds to, and aggravates his system of violence against neutral trade, he endeavours to throw all the odium of his acts upon Great Britain, with a view to engender discord between the neutral countries and the only power which stands up as a bulwark against his efforts at universal tyranny and oppression.

Excuse me, sir, if I express my wish as early as possible to despatch his majesty's packet boat with the result of our communications, as his majesty's government will necessarily be most anxious to hear from me. Any short period of time, however, which may appear to you to be reasonable, I will not hesitate to detain her.

I have the honour to be, &c.

AUG. J. FOSTER.

The Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster. Department of State, July 23, 1811.

SIR,—I have submitted to the President your several letters, of the 3d and 16th of this month, relative to the British orders in council and the blockade of May, 1806, and I have now the honour to communicate to you his sentiments on the view which you have presented of those measures of your government.

It was hoped that your communication would have led to an immediate accommodation of the differences subsisting between our countries, on the ground on which alone it is possible to meet you. It is regretted that you have confined yourself to a vindication of the measures which produced some of them.

The United States are as little disposed now as heretofore to enter into the question concerning the priority of aggression by the two belligerents, which could not be justified by either, by the priority of those of the other. But as you bring forward that plea in support of the orders in council, I must be permitted to remark that you have yourself furnished a conclusive answer to it, by admitting that the blockade of May, 1806, which was prior to the first of the French decrees, would not be legal, unless supported through the whole extent of the coast, from the Elbe to Brest, by an adequate naval force. That such a naval force was actually applied and continued in the requisite strictness until that blockade was comprised in and superseded by the orders of November of the following year, or even until the French decree of the same year, will not I presume be alleged.

But waving this question of priority, can it be seen, without both surprise and regret, that it is still contended that the orders in council are justified by the principle of retaliation, and that this principle is strengthened by the inability of France to enforce her decrees. A *rétaliation* is in its name, and its essential character, a returning a like for like. Is the deadly blow of the orders in council against one half of our commerce, a return of like for like to an empty threat in the French decrees against the other half? It may be a vindictive hostility, as far as its effect falls on the enemy: but when falling on a neutral, who on no pretext can be liable for more than the measure of injury received through such neutral, it would not be a retaliation, but a positive wrong, by the plea on which it is founded.

It is to be further remarked, that the orders in council went even beyond the plea, such as this has appeared to be, in extending its operation against the trade of the United States with nations which, like Russia, had not adopted the French decrees, and with all nations which had merely excluded the British flag; an exclusion resulting as matter of course with respect to whatever nation Great Britain might happen to be at war.

I am far from viewing the modification originally contained in these orders, which permits neutrals to prosecute their trade with the continent, through Great Britain, in the favourable light in which you represent it. It is im-

possible to proceed to notice the effect of this modification without expressing our astonishment at the extravagance of the political pretension set up by it: a pretension which is utterly incompatible with the sovereignty and independence of other states. In a commercial view it is not less objectionable, as it cannot fail to prove destructive to neutral commerce. As an enemy, Great Britain cannot trade with France. Nor does France permit a neutral to come into her ports from Great Britain. The attempt of Great Britain to force our trade through her ports, would have, therefore, the commercial effect of depriving the United States altogether of the market of her enemy for their productions, and of destroying their value in her market by a surcharge of it. Heretofore it has been the usage of belligerent nations to carry on their trade through the intervention of neutrals, and this had the beneficial effect of extending to the former the advantages of peace while suffering under the calamities of war. To reverse the rule, and to extend to nations at peace the calamities of war, is a change as novel and extraordinary as it is at variance with justice and publick law.

Against this unjust system, the United States entered, at an early period, their solemn protest. They considered it their duty to evince to the world their high disapprobation of it, and they have done so by such acts as were deemed most consistent with the rights and the policy of the nation. Remote from the contentious scene which desolates Europe, it has been their uniform object to avoid becoming a party to the war. With this view they have endeavoured to cultivate friendship with both parties by a system of conduct which ought to have produced that effect. They have done justice to each party in every transaction in which they have been separately engaged with it. They have observed the impartiality which was due to both as belligerents standing on equal ground, having in no instance given a preference to either at the expense of the other. They have borne too, with equal indulgence, injuries from both, being willing, while it was possible, to impute them to casualties inseparable from a state of war, and not to a deliberate intention to violate their rights. And even when that intention could not be mistaken, they have not lost sight of the ultimate object of their policy. In the measures to which they have been compelled to resort, they have in

all respects maintained pacifick relations with both parties. The alternative presented by their late acts was offered equally to both, and could operate on neither no longer than it should persevere in its aggressions on our neutral rights. The embargo and non-intercourse were pacifick measures. The regulations which they imposed on our trade were such as any nation might adopt in peace or war without offence to any other nation. The non-importation is of the same character; and if it makes a distinction at this time in its operation between the belligerents, it necessarily results from a compliance of one with the offer made to both, and which is still open to the compliance of the other.

In the discussions which have taken place on the subject of the orders in council and blockade of May, 1806, the British government, in conformity to the principle on which the orders in council are said to be founded, declared that they should cease to operate as soon as France revoked her edicts. It was stated also that the British government would proceed *pari passu* with the government of France in the revocation of her edicts. I will proceed to show that the obligation on Great Britain to revoke her orders is complete, according to her own engagement, and that the revocation ought not to be longer delayed.

By the act of May 1st, 1810, it is provided that if either Great Britain or France should cease to violate the neutral commerce of the United States, which fact the President should declare by proclamation, and the other party should not within three months thereafter revoke or modify its edicts in like manner, that then certain sections in a former act interdicting the commercial intercourse between the United States and Great Britain and France and their dependencies, should, from and after the expiration of three months from the date of the proclamation, be revived and have full force against the former, its colonies and dependencies, and against all articles the growth, produce or manufacture of the same.

The violations of neutral commerce alluded to in this act, were such as were committed on the high seas. It was in the trade between the United States and the British dominions that France had violated the neutral rights of the United States by her blockading edicts. It was in the trade with France and her allies that Great Britain had

committed similar violations by similar edicts. It was the revocation of those edicts, so far as they committed such violations, which the United States had in view, when they passed the law of May 1, 1810.

On the fifth August, 1810, the French minister of foreign affairs addressed a note to the minister plenipotentiary of the United States at Paris, informing him that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st November following: that the measure had been taken by his government in confidence that the British government would revoke its orders and renounce its new principle of blockade, or that the United States would cause their rights to be respected, conformably to the act of May 1, 1810.

This measure of the French government was founded on the law of May 1, 1810, as is expressly declared in the letter of the duke of Cadore, announcing it. The edicts of Great Britain, the revocation of which was expected by France, were those alluded to in that act; and the means by which the United States should cause their rights to be respected in case Great Britain should not revoke her edicts, were likewise to be found in the same act. They consisted merely in the enforcement of the non-importation act against Great Britain, in that unexpected and improbable contingency.

The letter of the 5th August, which announced the revocation of the French decrees, was communicated to this government; in consequence of which, the President issued a proclamation on the 2d November, the day after that on which the repeal of the French decrees was to take effect, in which he declared, that all the restrictions imposed by the act of May 1, 1810, should cease and be discontinued in relation to France and her dependencies. It was a necessary consequence of this proclamation also, that if Great Britain did not revoke her edicts, the non-importation would operate against her at the end of three months. This actually took place. She declined the revocation, and on the 2d February last, that law took effect. In confirmation of the proclamation, an act of Congress was passed on the 2d March following.

Great Britain still declines to revoke her edicts on the pretension that France has not revoked hers. Under that

impression she infers that the United States have done her injustice by carrying into effect the non-importation against her.

The United States maintain that France has revoked her edicts so far as they violated their neutral rights, and were contemplated by the law of May 1st, 1810, and have on that ground particularly claimed, and do expect of Great Britain a similar revocation.

The revocation announced officially by the French minister of foreign affairs to the minister plenipotentiary of the United States at Paris, on the 5th August, 1810, was in itself sufficient to justify the claim of the United States to a correspondent measure from Great Britain. She had declared that she would proceed *pari passu* in the repeal with France, and the day being fixed when the repeal of the French decrees should take effect, it was reasonable to conclude that Great Britain would fix the same day for the repeal of her orders. Had this been done, the proclamation of the President would have announced the revocation of the edicts of both powers at the same time; and in consequence thereof, the non-importation would have gone into operation against neither. Such too is the natural course of proceeding in transactions between independent states; and such the conduct which they generally observe towards each other. In all compacts between nations, it is the duty of each to perform what it stipulates, and to presume on the good faith of the other, for a like performance. The United States having made a proposal to both belligerents, were bound to accept a compliance from either, and it was no objection to the French compliance, that it was in a form to take effect at a future day, that being a form not unusual in laws and other public acts. Even when nations are at war and make peace, this obligation of mutual confidence exists, and must be respected. In treaties of commerce, by which their future intercourse is to be governed, the obligation is the same. If distrust and jealousy are allowed to prevail, the moral tie which binds nations together in all their relations, in war as well as in peace, is broken.

What would Great Britain have hazarded by a prompt compliance in the manner suggested? She had declared that she had adopted the restraints imposed by her orders in council with reluctance, because of their distressing

effect on neutral powers. Here then was a favourable opportunity presented to her, to withdraw from that measure with honour, be the conduct of France afterwards what it might. Had Great Britain revoked her orders, and France failed to fulfil her engagement, she would have gained credit at the expense of France, and could have sustained no injury by it, because the failure of France to maintain her faith would have replaced Great Britain at the point from which she had departed. To say that a disappointed reliance on the good faith of her enemy, would have reproached her foresight, would be to set a higher value on that quality than on consistency and good faith, and would sacrifice to a mere suspicion towards an enemy, the plain obligations of justice towards a friendly power.

Great Britain has declined proceeding *pari passu* with France in the revocation of their respective edicts. She has held aloof and claims of the United States proof not only that France has revoked her decrees, but that she continues to act in conformity with the revocation.

To show that the repeal is respected, it is deemed sufficient to state that not one vessel has been condemned by French tribunals, on the principle of those decrees, since the 1st November last. The New Orleans packet from Gibraltar to Bordeaux, was detained, but never condemned. The Grace Ann Greene, from the same British port, to Marseilles, was likewise detained, but afterwards delivered up unconditionally to the owner, as was such part of the cargo of the New Orleans packet, as consisted of the produce of the United States. Both these vessels proceeding from a British port, carried cargoes, some articles of which in each, were prohibited by the laws of France, or admissible by the sanction of the government alone. It does not appear that their detention was imputable to any other cause. If imputable to the circumstance of passing from a British to a French port, or on account of any part of their cargoes, it affords no cause of complaint to Great Britain, as a violation of our neutral rights. No such cause would be afforded, even in a case of condemnation. The right of complaint would have belonged to the United States.

In denying the revocation of the decrees, so far as it is a proper subject of discussion between us, it might reasona-

bly be expected that you would produce some examples of vessels taken at sea, in voyages to British ports, or on their return home, and condemned under them by a French tribunal. None such has been afforded by you. None such are known to this government.

You urge only as an evidence that the decrees are not repealed, the speech of the emperor of France to the deputies from the free cities of Hamburg, Bremen, and Lubeck; the imperial edict dated at Fontainebleau, on the 19th of October, 1810; the report of the French minister of foreign affairs dated in December last, and a letter of the minister of justice to the president of the council of prizes of the 25th of that month.

There is nothing in the first of these papers incompatible with the revocation of the decrees, in respect to the United States. It is distinctly declared by the emperor in his speech to the deputies of the Hanse Towns, that the blockade of the British islands shall cease when the British blockades cease; and that the French blockades shall cease in favour of those nations in whose favour Great Britain revokes hers, or who support their rights against her pretension, as France admits the United States will do by enforcing the non-importation act. The same sentiment is expressed in the report of the minister of foreign affairs. The decree of Fontainebleau having no effect on the high seas, cannot be brought into this discussion. It evidently has no connection with neutral rights.

The letter from the minister of justice to the president of the council of prizes, is of a different character. It relates in direct terms to this subject, but not in the sense in which you understand it. After reciting the note from the duke of Cadore of the 5th August last, to the American minister at Paris, which announced the repeal of the French decrees, and the proclamation of the President in consequence of it, it states that all causes arising under those decrees after the 1st November, which were then before the court, or might afterwards be brought before it, should not be judged by the principles of the decrees, but be suspended until the 2d February, when the United States having fulfilled their engagement, the captures should be declared void, and the vessels and their cargoes delivered up to their owners. This paper appears to afford an unequivocal evidence of the revocation of the decrees,

so far as relates to the United States. By instructing the French tribunal to make no decision until the 2d February, and then to restore the property to the owners on a particular event which has happened; all cause of doubt on that point seems to be removed. The United States may justly complain of delay in the restitution of that property, but that is an injury, which affects them only, Great Britain has no right to complain of it. She was interested only in the revocation of the decrees by which neutral rights would be secured from future violation; or if she had been interested in the delay, it would have afforded no pretext for more than a delay in repealing her orders till the 2d February. From that day, at farthest, the French decrees would cease. At the same day ought her orders to have ceased. I might add to this statement that every communication received from the French government, either through our representative there, or its representative here, are in accord with the actual repeal of the Berlin and Milan decrees, in relation to the neutral commerce of the United States. But it will suffice to remark that the best and only adequate evidence of their ceasing to operate, is the defect of evidence that they do operate. It is a case where the want of proof against the fulfilment of a pledge is proof of the fulfilment. Every case occurring, to which, if the decrees were in force, they would be applied, and to which they are not applied, is a proof that they are not in force. And if these proofs have not been more multiplied, I need not remind you, that a cause is to be found in the numerous captures under your orders in council, which continue to evince the rigour with which they are enforced, after a failure of the basis on which they were supposed to rest.

But Great Britain contends, as appears by your last letter, that she ought not to revoke her orders in council, until the commerce of the continent is restored to the state on which it stood before the Berlin and Milan decrees issued; until the French decrees are repealed, not only as to the United States, but so as to permit Great Britain to trade with the continent. Is it then meant that Great Britain should be allowed to trade with all the powers with whom she traded at that epoch? Since that time France has extended her conquests to the north, and raised enemies against Great Britain, where she then had

friends. Is it proposed to trade with them notwithstanding the change in their situation? Between the enemies of one date and those of another, no discrimination can be made. There is none in reason, nor can there be any of right, in practice. Or do you maintain the general principle, and contend that Great Britain ought to trade with France and her allies? Between enemies there can be no commerce. The vessels of either taken by the other are liable to confiscation, and are always confiscated. The number of enemies or extent of country which they occupy, cannot affect the question. The laws of war govern the relation which subsists between them, which, especially in the circumstance under consideration, are invariable. They were the same in times the most remote that they now are. Even if peace had taken place between Great Britain and the powers of the continent, she could not trade with them without their consent. Or does Great Britain contend, that the United States, as a neutral power, ought to open the continent to her commerce, on such terms as she may designate? On what principle can she set up such a claim? No example of it can be found in the history of past wars, nor is it founded in any recognised principle of war, or in any semblance of reason or right. The United States could not maintain such a claim in their own favour, though neutral. When advanced in favour of an enemy, it would be the most preposterous and extravagant claim ever heard of. Every power, where not restrained by treaty, has a right to regulate its trade with other nations, in such manner as it finds most consistent with its interest; to admit, and on its own conditions, or to prohibit the importation of such articles as are necessary to supply the wants, or encourage the industry of its people. In what light would Great Britain view an application from the United States, for the repeal of right, of any act of her parliament, which prohibited the importation of any article from the United States, such as their fish or their oil? Or which claimed the diminution of the duty on any other, such as their tobacco, on which so great a revenue is raised? In what light would she view a similar application, made at the instance of France, for the importation into England, of any article the growth or manufacture of that power, which it was the policy of the British government to prohibit?

If delays have taken place in the restitution of American property, and in placing the American commerce in the ports of France on a fair and satisfactory basis, they involve questions, as has already been observed, in which the United States alone are interested. As they do not violate the revocation by France, of her edicts, they cannot impair the obligation of Great Britain to revoke hers, nor change the epoch at which the revocation ought to have taken place. Had that duly followed, it is more than probable that those circumstances, irrelative as they are, which have excited doubt in the British government, of the practical revocation of the French decrees, might not have occurred.

Every view which can be taken of this subject, increases the painful surprise at the innovations on all the principles and usages heretofore observed, which are so unreservedly contended for in your letters of the 3d and 16th instant, and which, if persisted in by your government, present such an obstacle to the wishes of the United States, for a removal of the difficulties which have been connected with the orders in council. It is the interest of belligerents to mitigate the calamities of war, and neutral powers possess ample means to promote that object, provided they sustain with impartiality and firmness the dignity of their station. If belligerents expect advantage from neutrals, they should leave them in the full enjoyment of their rights. The present war has been oppressive beyond example, by its duration, and by the desolation which it has spread throughout Europe. It is highly important that it should assume, at least, a milder character. By the revocation of the French edicts, so far as they respected the neutral commerce of the United States, some advance is made towards that most desirable and consoling result. Let Great Britain follow the example. The ground thus gained will soon be enlarged by the concurring and pressing interests of all parties, and whatever is gained will accrue to the advantage of afflicted humanity.

I proceed to notice another part of your letter of the 3d instant, which is reviewed in a more favourable light. The President has received with great satisfaction the communication, that should the orders in council of 1807, be revoked, the blockade of May, of the preceding year, would cease with them, and that any blockade which

should be afterwards instituted, should be duly notified and maintained by an adequate force. This frank and explicit declaration, worthy of the prompt and amicable measure adopted by the prince regent in coming into power, seems to remove a material obstacle to an accommodation of differences between our countries, and when followed by the revocation of the orders in council, will, as I am authorized to inform you, produce an immediate termination of the non-importation law, by an exercise of the power vested in the President for that purpose.

I conclude with remarking, that if I have confined this letter to the subjects brought into view by yours, it is not because the United States have lost sight, in any degree, of the other very serious causes of complaint, on which they have received no satisfaction, but because the conciliatory policy of this government has thus far separated the case of the orders in council from others, and because, with respect to these others, your communication has not afforded any reasonable prospect of resuming them, at this time, with success. It is presumed that the same liberal view of the true interests of Great Britain, and friendly disposition towards the United States, which induced the prince regent to remove so material a difficulty as had arisen in relation to a repeal of the orders in council, will lead to a more favourable further consideration of the remaining difficulties on that subject, and that the advantages of an amicable adjustment of every question depending between the two countries, will be seen by your government in the same light as they are by that of the United States.

I have the honour to be, &c. &c.

JAS. MONROE.

Augustus J. Foster, Esq. &c.

Mr. Foster to Mr. Monroe. Washington, July 24, 1811.

SIR,—Having been unable to ascertain distinctly from your letter to me of yesterday's date, whether it was the determination of the President to rest satisfied with the partial repeal of the Berlin and Milan decrees, which you believe has taken place, so as to see no reason in the

conduct of France for altering the relations between this country and Great Britain, by exercising his power of suspending the operation of the non-importation act; allow me to repeat my question to you on this point, as contained in my letter of the 14th instant, before I proceed to make any comments on your answer.

I have the honour to be, &c.

AUG. J. FOSTER.

The Hon. James Monroe,
Secretary of State.

*Mr. Monroe to Mr. Foster. Department of State, July
26, 1811.*

SIR,—I had the honour to receive your letter of yesterday's date, in time to submit it to the view of the President before he left town.

It was my object to state to you in my letter of the 23d instant, that under existing circumstances, it was impossible for the President to terminate the operation of the non-importation law of the second March last: that France having accepted the proposition made by a previous law equally to Great Britain and to France, and having revoked her decrees, violating our neutral rights, and Great Britain having declined to revoke hers, it became the duty of this government to fulfil its engagement, and to declare the non-importation law in force against Great Britain.

This state of affairs has not been sought by the United States. When the proposition contained in the law of May 1st, 1810, was offered equally to both powers, there was cause to presume that Great Britain would have accepted it, in which event the non-importation law would not have operated against her.

It is in the power of the British government, at this time, to enable the President to set the non-importation law aside, by rendering to the United States an act of justice. If Great Britain will cease to violate their neutral rights by revoking her orders in council, on which event alone the President has the power, I am instructed to inform you that he will, without delay, exercise it by terminating the operation of this law.

It is presumed that the communications which I have had the honour to make to you, of the revocation by France of her decrees, so far as they violated the neutral rights of the United States, and of her conduct since the revocation, will present to your government a different view of the subject from that which it had before taken, and produce in its councils a corresponding effect.

I have the honour to be, &c.

JAMES MONROE.

Aug. J. Foster, Esq. &c.

Mr. Foster to Mr. Monroe. Washington, July 26, 1811.

SIR,—I have had the honour to receive your letter of July 23d, in answer to mine of the 3d and 14th instant, which, give me leave to say, were not merely relative to his majesty's orders in council, and the blockade of May, 1806, but also to the President's proclamation of last November, and to the subsequent act of Congress of March 2d, as well as to the just complaints which his royal highness, the prince regent, had commanded me to make to your government with respect to the proclamation and to that act.

If the United States government had expected that I should have made communications which would have enabled them to come to an accommodation with Great Britain, on the ground on which alone you say it was possible to meet us, and that you mean by that expression a departure from our system of defence against the new kind of warfare still practised by France; I am at a loss to discover from what source they could have derived those expectations, certainly not from the correspondence between the marquis Wellesley and Mr. Pinkney.

Before I proceed to reply to the arguments which are brought forward by you, to show that the decrees of Berlin and Milan are repealed, I must first enter into an explanation upon some points on which you have evidently misapprehended, for I will not suppose you could have wished to misinterpret my meaning.

And first, in regard to the blockade of May, 1806, I must aver, that I am wholly at a loss to find out from what part of my letter it is that the President has drawn the

unqualified inference, that should the orders in council of 1807, be revoked, the blockade of May, 1806, would cease with them. It is most material that on this point no mistake should exist between us. From your letter it would appear as if, on the question of blockade which America had so unexpectedly connected with her demand for a repeal of our orders in council, Great Britain had made the concession required of her; as if, after all that has passed on the subject, after the astonishment and regret of his majesty's government at the United States having taken up the view which the French government presented, of our just and legitimate principles of blockade which are exemplified in the blockade of May, 1806, the whole ground taken by his majesty's government was at once abandoned. When I had the honour to exhibit to you my instructions, and to draw up, as I conceived according to your wishes, and those of the President, a statement of the mode in which that blockade would probably disappear, I never meant to authorize such a conclusion, and I now beg most unequivocally to disclaim it. The blockade of May, 1806, will not continue after the repeal of the orders in council, unless his majesty's government shall think fit to sustain it by the special application of a sufficient naval force, and the fact of its being so continued or not, will be notified at the time. If in this view of the matter, which is certainly presented in a conciliatory spirit, one of the obstacles to a complete understanding between our countries can be removed by the United States' government waving all further reference to that blockade, when they can be justified in asking a repeal of the orders, and I may communicate this to my government, it will, undoubtedly, be very satisfactory: but I beg distinctly to disavow having made any acknowledgement that the blockade would cease merely in consequence of a revocation of the orders in council. Whenever it does cease, it will cease because there will be no adequate force applied to maintain it.

On another very material point, sir, you appear to have misconstrued my words; for in no one passage of my letter can I discover any mention of innovations on the part of Great Britain, such as you say excited a painful surprise in your government. There is no new pretension set up by his majesty's government. In answer to questions of

yours as to what were the decrees or regulations of France which Great Britain complained of, and against which she directs her retaliatory measures, I brought distinctly into your view the Berlin and Milan decrees; and you have not denied, because indeed you could not, that the provisions of those decrees were new measures of war on the part of France, acknowledged as such by her ruler, and contrary to the principles and usages of civilized nations. That the present war has been oppressive beyond example by its duration, and the desolation it spreads through Europe, I willingly agree with you, but the United States cannot surely mean to attribute the cause to Great Britain. The question between Great Britain and France is that of an honourable struggle against the lawless efforts of an ambitious tyrant, and America can but have the wish of every independent nation as to its result.

On a third point, sir, I have also to regret that my meaning should have been mistaken. Great Britain never contended that British merchant vessels should be allowed to trade with her enemies, or that British property should be allowed entry into their ports, as you would infer; such a pretension would indeed be preposterous; but Great Britain does contend against the system of terror put in practice by France, by which usurping authority, wherever her arms or the timidity of nations will enable her to extend her influence, she makes it a crime to neutral countries as well as individuals that they should possess articles, however acquired, which may have been once the produce of English industry or of the British soil. Against such an abominable and extravagant pretension, every feeling must revolt; and the honour, no less than the interest, of Great Britain engages her to oppose it.

Turning to the course of argument contained in your letter, allow me to express my surprise at the conclusion you draw in considering the question of priority, relative to the French decrees or British orders in council. It was clearly proved that the blockade of May, 1806, was maintained by an adequate naval force, and therefore was a blockade founded on just and legitimate principles; and I have not heard that it was considered in a contrary light, when notified as such to you by Mr. Secretary Fox, nor

until it suited the views of France to endeavour to have it considered otherwise. Why America took up the view the French government chose to give of it, and could see in it grounds for the French decrees, was always matter of astonishment in England.

Your remarks on the modifications at various times, of our system of retaliation, will require the less reply, from the circumstance of the order in council of April, 1809, having superseded them all. They were calculated for the avowed purpose of softening the effect of the original orders on neutral commerce, the incidental effect of those orders on neutrals having been always sincerely regretted by his majesty's government; but when it was found that neutrals objected to them, they were removed.

As to the principle of retaliation, it is founded on the just and natural right of self defence against our enemy; if France is unable to enforce her decrees on the ocean, it is not from the want of will, for she enforces them wherever she can do it; her threats are only empty where her power is of no avail.

In the view you have taken of the conduct of America, in her relations with the two belligerents, and in the conclusion you draw with respect to the impartiality of your country, as exemplified in the non-importation law, I lament to say I cannot agree with you. That act is a direct measure against the British trade, enacted at a time when all the legal authorities in the United States appeared ready to contest the statement of a repeal of the French decrees, on which was founded the President's proclamation of November 2d, and consequently to dispute the justice of the proclamation itself.

You urge, sir, that the British government promised to proceed *pari passu* with France in the repeal of her edicts. It is to be wished you could point out to us any step France has taken in the repeal of hers. Great Britain has repeatedly declared that she would repeal when the French did so, and she means to keep to that declaration.

I have stated to you that we could not consider the letter of August 5, declaring the repeal of the French edicts, provided we revoked our orders in council, or America resented our not doing so, as a step of that nature; and the French government knew that we could not; their object was, evidently, while their system was adhered to

in all its rigour, to endeavour to persuade the American government that they had relaxed from it, and to induce her to proceed in enforcing the submission of Great Britain to the inordinate demands of France. It is to be lamented that they have but too well succeeded; for the United States' government appear to have considered the French declaration in the sense in which France wished it to be taken, as an absolute repeal of her decrees, without adverting to the conditional terms which accompanied it.

But you assert that no violations of your neutral rights by France occur on the high seas, and that these were all the violations alluded to in the act of Congress of May, 1810. I readily believe, indeed, that such cases are rare, but it is owing to the preponderance of the British navy that they are so. When scarce a ship under the French flag can venture to sea without being taken, it is not extraordinary that they make no captures. If such violations alone were within the purview of your law, there would seem to have been no necessity for its enactment. The British navy might have been safely trusted for the prevention of their occurrence. But I have always believed, and my government has believed, that the American legislators had in view in the provisions of their law, as it respects France, not only her deeds of violence on the seas, but all the novel and extraordinary pretensions and practices of her government which infringed their neutral rights.

We have had no evidence, as yet, of any of those pretensions being abandoned. To the ambiguous declaration in M. Champagny's note, is opposed the unambiguous and personal declaration of Bonaparte himself. You urge that there is nothing incompatible with the revocation of the decrees, in respect to the United States, in his expressions to the deputies from the free cities of Hamburg, Bremen and Lubeck; that it is distinctly stated in that speech *that the blockade of the British Islands shall cease when the British blockades cease*, and that the French blockade shall cease in favour of those nations in whose favour Great Britain revokes hers, or who support their rights against her pretension.

It is to be inferred from this and the corresponding parts of the declaration alluded to, that unless Great Britain sacrifices her principles of blockade, which are those au-

thorized by the established law of nations, France will still maintain her decrees of Berlin and Milan, which indeed the speech in question declares to be the fundamental laws of the French empire.

I do not, I confess, conceive how these avowals of the ruler of France can be said to be compatible with the repeal of his decrees in respect to the United States. If the United States are prepared to insist on the sacrifice by Great Britain of the ancient and established rules of maritime war practised by her, then, indeed, they may avoid the operation of the French decrees; but otherwise, according to this document, it is very clear that they are still subjected to them.

The decree of Fontainebleau is confessedly founded on the decrees of Berlin and Milan, dated the 19th October, 1810, and proves their continued existence. The report of the French minister of December 8, announcing the perseverance of France in her decrees, is still further in confirmation of them, and a re-perusal of the letter of the minister of justice of the 25th last December, confirms me in the inference I drew from it; for, otherwise, why should that minister make the prospective restoration of American vessels taken after the 1st November, to be a consequence of the non-importation, and not of the French revocation. If the French government had been sincere, they would have ceased infringing on the neutral rights of America after the 1st November: that they violated them, however, after that period, is notorious.

Your government seem to let it be understood that an ambiguous declaration from Great Britain, similar to that of the French minister, would have been acceptable to them. But, sir, is it consistent with the dignity of a nation that respects itself to speak in ambiguous language? The subjects and citizens of either country would, in the end, be the victims, as many are already, in all probability, who from a misconstruction of the meaning of the French government, have been led into the most imprudent speculations. Such conduct would not be to proceed *pari passu* with France in revoking our edicts, but to descend to the use of the perfidious and juggling contrivances of her cabinet, by which she fills her coffers at the expense of independent nations. A similar construction of proceeding *pari passu* might lead to such decrees as those

of Rambouillet or of Bayonne, to the system of exclusion or of licenses; all measures of France against the American commerce, in nothing short of absolute hostility.

It is urged that no vessel has been condemned by the tribunals of France on the principles of her decrees since the 1st November. You allow, however, that there have been some detained since that period, and that such part of the cargoes as consisted of goods not the produce of America was seized, and the other part, together with the vessel itself, only released after the President's proclamation became known in France. These circumstances surely only prove the difficulty that France is under in reconciling her anti-commercial and anti-neutral system with her desire to express her satisfaction at the measures taken in America against the commerce of Great Britain. She seizes in virtue of the Berlin and Milan decrees, but she makes a partial restoration for the purpose of deceiving America.

I have now followed you, I believe, sir, through the whole range of your argument, and on reviewing the course of it I think I may securely say, that no satisfactory proof has as yet been brought forward of the repeal of the obnoxious decrees of France, but on the contrary, that it appears they continue in full force; consequently that no grounds exist on which you can with justice demand of Great Britain a revocation of her orders in council; that we have a right to complain of the conduct of the American government in enforcing the provisions of the act of May, 1810, to the exclusion of the British trade, and afterwards in obtaining a special law for the same purpose, though it was notorious at the time that France still continued her aggressions upon American commerce, and had recently promulgated anew her decrees, suffering no trade from this country but through licenses publicly sold by her agents, and that all the suppositions you have formed of innovations on the part of Great Britain, or of her pretensions to trade with her enemies, are wholly groundless. I have also stated to you the view ~~his~~ his majesty's government has taken of the question of the blockade of May, 1806, and it now only remains that I urge afresh the injustice of the United States' government persevering in their union with the French system, for the purpose of crushing the commerce of Great Britain.

From every consideration which equity, good policy, or interest can suggest, there appears to be such a call upon America to give up this system which favours France to the injury of Great Britain, that I cannot, however little satisfactory your communications, as yet abandon all hopes that even before the Congress meet, a new view may be taken of the subject by the President, which will lead to a more happy result.

I have the honour to be, &c.

AUG. J. FOSTER.

Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster. Department of State, October 1, 1811.

SIR,—I have had the honour to receive your letter of the 26th of July, and to submit it to the view of the President.

In answering that letter, it is proper that I should notice a complaint that I had omitted to reply in mine of the 23d of July, to your remonstrance against the proclamation of the President of November last, and to the demand which you had made, by the order of your government, of the repeal of the non-importation act of March 2d, of the present year.

My letter has certainly not merited this imputation.

Having shown the injustice of the British government in issuing the orders in council on the pretext assigned, and its still greater injustice in adhering to them after that pretext had failed, a respect for Great Britain, as well as for the United States, prevented my placing in the strong light in which the subject naturally presented itself, the remonstrance alluded to, and the extraordinary demand founded on it, that while your government accommodated in nothing, the United States should relinquish the ground, which, by a just regard to the publick rights and honour, they had been compelled to take. Propositions tending to degrade a nation can never be brought into discussion by a government not prepared to submit to the degradation. It was for this reason that I confined my reply to those passages in your letter, which involved the claim of the United States, on the principles of justice, to the revoca-

tion of the orders in council. Your demand, however, was neither unnoticed nor unanswered. In laying before you the complete, and as was believed, irresistible proof on which the United States expected, and called for the revocation of the orders in council, a very explicit answer was supposed to be given to that demand.

Equally unfounded is your complaint that I misunderstood that passage which claimed, as a condition of the revocation of the orders in council, that the trade of Great Britain with the continent should be restored to the state in which it was before the Berlin and Milan decrees were issued. As this pretension was novel and extraordinary, it was necessary that a distinct idea should be formed of it, and, with that view, I asked such an explanation as would enable me to form one.

In the explanation given, you do not insist on the right to trade in British property with British vessels, directly with your enemies. Such a claim you admit would be preposterous. But you do insist by necessary implication that France has no right to inhibit the importation into her ports of British manufactures, or the produce of the British soil, when the property of neutrals; and that, until France removes that inhibition, the United States are to be cut off by Great Britain from all trade whatever with her enemies.

On such a pretension it is almost impossible to reason. There is, I believe, no example of it in the history of past wars. Great Britain, the enemy of France, undertakes to regulate the trade of France; nor is that all; she tells her that she must trade in British goods. If France and Great Britain were at peace, this pretension would not be set up, nor even thought of. Has Great Britain then acquired, in this respect, by war, rights which she has not in peace? And does she announce to neutral nations, that unless they consent to become the instruments of this policy, their commerce shall be annihilated, their vessels shall be shut up in their own ports?

I might ask whether French goods are admitted into Great Britain, even in peace, and if they are, whether it be of right, or by the consent and policy of the British government?

That the property would be neutralized does not affect the question. If the United States have no right to carry

their own productions into France with the consent of the French government, how can they undertake to carry there those of Great Britain? In all cases it must depend on the interest and the will of the party.

Nor is it material to what extent, or by what powers, the trade to the continent is prohibited. If the powers who prohibit it, are at war with Great Britain, the prohibition is a necessary consequence of that state. If at peace, it is their own act, and whether it be voluntary or compulsive, they alone are answerable for it. If the act be taken at the instigation and under the influence of France, the most that can be said is, that it justifies reprisal against them by a similar measure; on no principle whatever can it be said to give any sanction to the conduct of Great Britain towards neutral nations.

The United States can have no objection to the employment of their commercial capital in the supply of France, and of the continent generally, with manufactures, and to comprise in the supply those of Great Britain, provided those powers will consent to it. But they cannot undertake to force such supplies on France or on any other power, in compliance with the claim of the British government, on principles incompatible with the rights of every independent nation, and they will not demand in favour of another power, what they cannot claim for themselves.

All that Great Britain could with reason complain of, was the inhibition by the French decrees, of the lawful trade of neutrals with the British dominions. As soon as that inhibition ceased, her inhibition of our trade with France ought in like manner to have ceased. Having pledged herself to proceed *pari passu* with France, in the revocation of their respective acts violating neutral rights, it has afforded just cause of complaint, and even of astonishment, to the United States, that the British government should have sanctioned the seizure and condemnation of American vessels, under the orders in council, after the revocation of the French decrees was announced, and even in the very moment when your mission, avowed to be conciliatory, was to have its effect. I will only add, that had it appeared finally, that France had failed to perform her engagement, it might at least have been expected, that Great Britain would not have molested such of the vessels

of the United States as might be entering the ports of France, on the faith of both governments, till that failure was clearly proved.

To many insinuations in your letter, I make no reply, because they sufficiently suggest the only one that would be proper.

If it were necessary to dwell on the impartiality which has been observed by the United States towards the two belligerents, I might ask, whether, if Great Britain had accepted the condition which was offered equally to her and France, by the act of May 1, 1810, and France had rejected it, there is cause to doubt that the non-importation act would have been carried into effect against France? No such doubt can possibly exist, because in a former instance, when this government, trusting to a fulfilment by yours, of an arrangement which put an end to a non-intercourse with Great Britain, the non-intercourse was continued against France, who had not then repealed her decrees, as it was not doubted that England had done. Has it not been repeatedly declared to your government, that if Great Britain would revoke her orders in council, the President would immediately cause the non-importation to cease? You well know that the same declaration has been often made to yourself, and that nothing is wanting to the removal of the existing obstructions to the commerce between the two countries, than a satisfactory assurance, which will be received with pleasure from yourself, that the orders in council are at an end.

By the remark in your letter of the 3d of July, that the blockade of May, 1806, had been included in the more comprehensive system of the orders in council of the following year, and that, if that blockade should be continued in force, after the repeal of the orders in council, it would be in consequence of the special application of a sufficient naval force; I could not but infer your idea to be, that the repeal of the orders in council would necessarily involve the repeal of the blockade of May. I was the more readily induced to make this inference from the consideration, that if the blockade was not revoked by the repeal of the orders in council, there would be no necessity for giving notice that it would be continued, as by the further consideration, that according to the decision of your court of

admiralty, a blockade instituted by proclamation, does not cease by the removal of the force applied to it, nor without a formal notice by the government to that effect.

It is not, however, wished to discuss any question relative to the mode by which that blockade may be terminated. Its actual termination is the material object for consideration.

It is easy to show, and it has already been abundantly shown, that the blockade of May, 1806, is inconsistent in any view that may be taken of it, with the law of nations. It is also easy to show that, as now expounded, it is equally inconsistent with the sense of your government when the order was issued, and this change is a sufficient reply to the remarks which you have applied to me personally.

If you will examine the order, you will find that it is strictly little more than a blockade of the coast from the Seine to Ostend. There is an express reservation in it, in favour of neutrals to any part of the coast between Brest and the Seine, and between Ostend and the Elbe. Neutral powers are permitted by it to take from their own ports every kind of produce without distinction, as to its origin, and to carry it to the continent, under that limitation, and with the exception only of contraband of war and enemy's property, and to bring thence to their own ports in return whatever articles they think fit. Why were contraband of war and enemy's property excepted, if a commerce even in those articles would not otherwise have been permitted under the reservation? No order was necessary to subject them to seizure; they were liable to it by the law of nations, as asserted by Great Britain.

Why then did the British government institute a blockade, which, with respect to neutrals, was not vigorous as to the greater part of the coast comprised in it? If you will look to the state of things which then existed between the United States and Great Britain, you will find the answer—a controversy had taken place between our governments on a different topick, which was still depending. The British government had interfered with the trade between France and her allies, in the produce of their colonies. The just claim of the United States was then a subject of negotiation, and your government, professing its willingness to make a satisfactory arrangement of it, issu-

and the order which allowed the trade, without making any concession as to the principle, reserving that for adjustment by treaty. It was in this light that I viewed, and in this sense that I represented that order to my government, and in no other did I make any comment on it.

When you reflect that this order, by allowing the trade of neutrals in colonial productions to all that portion of the coast which was not rigorously blockaded, afforded to the United States an accommodation in a principal point then at issue between our governments, and of which their citizens extensively availed themselves; that that trade, and the question of blockade, and every other question in which the United States and Great Britain were interested, were then in a train of amicable negotiation; you will, I think, see the cause why the minister, who then represented the United States with the British government, did not make a formal complaint against it. You have appealed to me, who happened to be that minister, and urged my silence as an evidence of my approbation of, or at least acquiescence in the blockade: an explanation of the cause of that supposed silence, is not less due to myself than to the true character of the transaction. With the minister with whom I had the honour to treat, I may add, that an official formal complaint was not likely to be resorted to, because friendly communications were invited and preferred. The want of such a document is no proof that the measure was approved by me, or that no complaint was made.

In recalling to my mind, as this incident naturally does, the manly character of that distinguished and illustrious statesman, and the confidence with which he inspired all those with whom he had to treat, I shall be permitted to express, as a slight tribute of respect to his memory, the very high consideration in which I have always held his great talents and virtues.

The United States have not, nor can they approve the blockade of an extensive coast. Nothing certainly can be inferred from any thing that has passed relative to the blockade of May, 1806, to countenance such an inference.

It is seen with satisfaction that you still admit that the application of an adequate force is necessary to give a blockade a legal character, and that it will lose that character whenever that adequate force ceases to be applied,

As it cannot be alleged that the application of any such adequate force has been continued and actually exists, in the case of the blockade of May, 1806, it would seem to be a fair inference that the repeal of the orders in council will leave no insuperable difficulty with respect to it. To suppose the contrary would be to suppose that the orders in council, said to include that blockade, resting themselves on a principle of retaliation only, and not sustained by the application of an adequate force, would have the effect of sustaining a blockade admitted to require the application of an adequate force, until such adequate force should actually take the place of the orders in council. Whenever any blockade is instituted, it will be a subject for consideration, and if the blockade be in conformity to the law of nations, there will be no disposition in this government to contest it.

I have the honour to be, &c.

JAS. MONROE.

Augustus J. Foster, Esq. &c.

Mr. Monroe to Mr. Foster. Department of State, October 17, 1811.

SIR,—I have the honour to communicate to you a copy of two letters from the charge d'affaires of the United States at Paris, to their charge d'affaires at London, and a copy of a correspondence of the latter with the marquis of Wellesley on the subject. By this it will be seen that Mr. Smith was informed by the marquis of Wellesley, that he should transmit to you a copy of the communication from Paris, that it might have full consideration in the discussions depending here.

Although an immediate repeal was to have been expected from your government, on the receipt of this communication, if the new proof which it affords of the French repeal was satisfactory; yet it will be very agreeable to learn that you are now authorized to concur in an arrangement that will terminate both the orders in council and the non-importation act.

I have the honour to be, &c.

JAMES MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

P. S. Hearing that you will not be in town for several days, this letter, and one bearing date on the 1st of this month, which I had prepared, and intended to deliver to you on my return here, are forwarded by a special messenger.

Mr. Russell to Mr. J. S. Smith. Paris, July 5, 1811.

SIR,—I observe by your letter of the 7th ultimo, your solicitude to obtain evidence of the revocation of the Berlin and Milan decrees.

On the 5th of August last the duke of Cadore announced to general Armstrong, that these decrees were revoked, and that they would cease to operate on the 1st of November. Since the 1st of November these decrees have not, to my knowledge, in any *instance* been executed to the prejudice of American property arriving since that time; on the contrary, the Grace Ann Greene, coming clearly within the penal terms of those decrees, had they continued in force, was liberated in December last, and her cargo admitted in April. This vessel had, indeed, been taken by the English, and re-taken from them; but as this circumstance is not assigned here as the cause of the liberation of this property, it ought not to be presumed to have operated alone as such.

Whatever special reasons may be supposed for the release of the Grace Ann Greene, that of the New Orleans Packet must have resulted from the revocation of the French edicts.

The New Orleans Packet had been boarded by two English vessels of war, and had been some time at an English port, and thus doubly transgressed against the decrees of Milan. On arriving at Bordeaux, she was in fact seized by the director of the customs, and these very transgressions expressly assigned as the cause of seizure. When I was informed of this precipitate act of the officer at Bordeaux, I remonstrated against it on the sole ground that the decrees, under which it was made, had been revoked. This remonstrance was heard. All further proceedings against the New Orleans Packet were arrested, and on the 9th of January, both the vessel and cargo were ordered to be placed at the disposition of the owners, on

giving bond. This bond has since been cancelled by an order of the government; and thus the liberation of the property perfected. The New Orleans Packet has been some time waiting in the Garonne, with her return cargo on board, for an opportunity only of escaping the English orders in council.

I know of no other American vessel arrived voluntarily in the empire of France or the kingdom of Italy, since the 1st of November, to which the decrees of Berlin and Milan could be applied.

I am, sir, &c.

JONA. RUSSELL.

J. S. Smith, Esq. Charge
d'Affaires, London.

Mr. Russell to Mr. J. S. Smith. Paris, July 14, 1811.

SIR,—I had the honour to address to you, on the 5th instant, a brief account of the Grace Ann Greene and of the New Orleans Packet. The proofs which these cases furnish, especially the latter, ought, when unopposed, as it is, by any conflicting circumstance, to be considered as conclusive of the revocation of the French edicts, to which, if continued in force, these cases would have been liable. In addition, however, to this evidence, I have now the satisfaction to communicate to you the liberation of the Two Brothers, the Good Intent, and the Star, three American vessels captured since the first of November, and brought into this empire, or into ports under its control. I should have no doubt been able to have announced the release, by one general decision, of every American vessel captured since that period, if the only inquiry were whether or not they had violated the Berlin and Milan decrees. Unfortunately, however, the practices of late years render the question of property extremely difficult to be satisfactorily decided amidst false papers and false oaths. After the most minute and tedious investigation, it often remains doubtful whether this property belongs to a neutral or an enemy. The time employed in this investigation has surely no connection with the Berlin and Milan decrees, and cannot be considered as evidence of their continuance.

It is possible that these decrees may be kept in force in their municipal character, and be applied for the confiscation of English merchandise on the continent ; and to prevent their performing this function does not appear to be a concern of the United States, nor can the measure adopted in retaliation of it, on the part of England, be justly extended beyond its limits, and made to reach an unoffending neutral power, which the act of her enemy does not affect.

It is sufficient for us, that the Berlin and Milan decrees have ceased to be executed on the high seas, and if the orders in council still continue to operate there, they surely are not supported by any principle of the law of retaliation, but must be considered as a simple and unqualified violation of our neutral and national rights.

The proof now before you of the revocation of the Berlin and Milan decrees, consists in the precise and formal declarations of this government—in its discontinuance to execute them to our prejudice in a single instance—in its having exempted from their operation every vessel arriving spontaneously since the 1st of November, to which they could be applied, and every vessel forcibly brought in since that time, on which there has been a decision. After such evidence, to pretend to doubt of their revocation with regard to us, would seem to be the result of something more than mere incredulity.

With much respect, I am, sir, &c. &c.

JONA. RUSSELL.

J. S. Smith, Esq. Charge
d'Affaires, London.

*Mr. J. S. Smith to the Marquis Wellesley. Bentinck Street,
July 23, 1811.*

MY LORD,—The letter which I have the honour to present to your lordship, has been just received by me from Mr. Russell. So full and complete is this document, that I conceive it quite unnecessary to add any comments or remarks of my own. I shall, however, have much pleasure in furnishing any other explanations in my power, either verbal or written, that your lordship may desire.

Any doubts that may have existed here of the effectual repeal of the decrees of Berlin and Milan will now, I feel assured, be completely removed; and I feel equally confident that this revocation of the French edicts will be immediately followed by that of the orders in council, which affect the neutral commerce of the United States. I need not assure your lordship of the great satisfaction I shall have in communicating this event to my government.

As the "orders in council" have been ever declared by his majesty's government to be only of a retaliating character, and that they would cease to have any effect when the causes upon which they were founded had ceased to exist, I trust that no argument is necessary to show (if your lordship shall feel the force with which the accompanying document unequivocally demonstrates the abandonment, on the part of France, of her decrees) that the "orders in council" should be so revoked as to embrace the American vessels that have been captured by British cruisers since the first of November, the period at which the French edicts were revoked.

I have the honour to subjoin to this the circumstances of the two vessels to which Mr. Russell alludes in his letter.

The *Grace Ann Greene* had been captured by an English cruiser; was retaken by her own crew, and arrived at Marseilles, where vessel and cargo were, notwithstanding, admitted.

The *New Orleans Packet* had been boarded by two English cruisers, and had been also at an English port, thus doubly transgressing against the French edicts. She arrived at Bordeaux, was seized by the director of the customs for these very transgressions, but, on the remonstrance of Mr. Russel, was immediately released, and has been admitted, vessel and cargo.

I have the honour to be, &c.

J. S. SMITH.

The Most Noble, the Marquis Wellesley.

*Marquis Wellesley to J. S. Smith, Esq. Foreign Office,
Aug. 8, 1811.*

SIR,—Your letter of the 23d ultimo has been under the consideration of his royal highness, the prince regent, and has received all the attention to which it is entitled.

I am commanded by his royal highness to acquaint you, that he has thought fit to postpone the answer to your letter until advices, which are hourly expected from Mr. Foster, shall have been received.

I have the honour to be, &c.

WELLESLEY.

J. S. Smith, Esq. &c.

*Lord Wellesley to J. S. Smith, Esq. Foreign Office, Aug.
14, 1811.*

SIR,—Since the date of my last letter, I have the honour to inform you, that I have received a letter from Mr. Foster, his majesty's minister in America, by which it appears that he had actually commenced a negotiation with the government of the United States, respecting the British orders in council. His despatches containing the particulars of the negotiation, have not yet reached me. Under these circumstances, I have transmitted a copy of your letter, together with its enclosure, to Mr. Foster, in order that those documents may receive full consideration in the progress of the discussions now depending in America.

I have the honour to be, &c.

WELLESLEY.

J. S. Smith, Esq.

Mr. Foster to Mr. Monroe. Washington, Oct. 22, 1811.

SIR,—I had the honour to receive your letter of 17th instant, together with its three enclosures, on the road between Baltimore and this city; I had that of receiving, at the same time, your letter dated October 1, in answer to mine of the 26th of last July.

Not having had any despatches from his majesty's government lately, I have not as yet received the copy of

the recent communication from Paris, in regard to the supposed repeal of the French decrees, which the charge d'affaires of the United States at London has intimated to you that he understood the marquis Wellesley intended to transmit to me, and which I conclude is the same as that contained in the letter of Mr. Russel, the American charge d'affaires in France. I am, however, in daily expectation of the arrival of his majesty's packet boat, when it will, in all probability, reach me, and when, if I should receive any fresh instructions in consequence, I will not fail immediately to acquaint you. In the mean while, however, I beg you will permit me to make some remarks in reply to your letter of October 1, being extremely anxious to do away the impression which you seem to have received relative to the demand I had made for the repeal of the non-importation act of the present year.

It is, I assure you, sir, with very great regret that I find you consider that demand as involving in any degree propositions tending to degrade your nation. Such an idea certainly never existed with his majesty's government, nor would it be compatible with the friendly sentiments entertained by them for the United States; neither could I have suffered myself to be the channel of conveying a demand which I thought had such a tendency. However you may view the demand made on the part of Great Britain, I can safely say that it was made in consequence of its appearing to his majesty's government on strong evidence that the chief of the French nation had really deceived America as to the repeal of his decrees, and in the hopes that the United States' government would therefore see the justice of replacing this country on its former footing of amicable relations with England; nothing appearing to be more natural than such an expectation, which seemed a necessary consequence of the disposition expressed by America to maintain her neutrality, and desirable in every other point of view. I cannot, indeed, bring myself to think, sir, that your candour would allow you, on a reconsideration, to put any other construction on the matter, and had my arguments had sufficient weight with you in showing that the French decrees were still in force, I cannot doubt but you would have agreed with me in the conclusion I drew. It would seem therefore only owing to your not viewing the deceitful conduct of the

French government in the same light that it appears to his majesty's government, that a difference of opinion exists between us as to the proposal I made, which, under the conviction entertained by them, was surely a very just and natural one.

From the earnest desire of vindicating myself and my government from the charge of making any degrading or unjust demands on that of America, I have taken the liberty to trouble you so far, and I will now proceed to show why I thought you had misunderstood the passage of my letter which related to the extent in which the repeal of the French decrees was required by Great Britain. In the explanation which you desired on this point, I gave you that which the marquis Wellesley gave to Mr. Pinkney, in answer to his letter of August 25, 1810, and I beg to refer you to the message of the President of the United States on the opening of Congress in December, 1810, for a proof that the demand of Great Britain, in the extent in which I have stated it, was known to your government several months ago; how was I, therefore, to suppose, in the term innovations as applied to the explanation given by me, that you could mean otherwise than some really new pretension on the part of Great Britain, such as that France should suffer British property to be carried into her ports for the purposes of trade. If the warmth I was betrayed into, in endeavouring to refute a supposed imputation of this sort, gave any offence, I sincerely regret it; and I will beg permission here to say, sir, that if unconsciously I have, by any of my remarks, led you to suppose they conveyed any improper insinuations, as one paragraph of your letter would appear to imply, I am most unfeignedly sorry for it, as I entertain the highest respect for you personally and for your government, and could only have meant what I wrote in the way of argument, or for the purpose of contrasting the proceedings of France in her conduct towards the United States with that of Great Britain.

In reverting to the extraordinary and unprecedented situation of things that have arisen out of the war in Europe, it would seem needless to repeat the evidence there is that the lawless and unbounded ambition of the ruler of France has been the origin of it, and it cannot be a secret to the United States' government, that his plan has been,

and avowedly continues to be, not to scruple at the violation of any law, provided he can thereby overthrow the maritime power of England. Is it not, therefore, reasonable in Great Britain to distrust an ambiguous declaration of his having suddenly given up any part of a system which he thought calculated to produce such an effect? You say, however, that the decrees of Berlin and Milan are revoked. America, as not being at war, and therefore, not seeing so nearly into the views of France, may be less scrupulous as to the evidence necessary to prove the fact; but, sir, it surely cannot be expected that Great Britain, who is contending for every thing that is dear to her, should not require more proof on a point so material to her. It is undoubtedly a very desirable thing for the United States to have a free and unrestricted trade with both belligerents, but the essential security and most important interests of America are not involved in the question as are those of Great Britain. France has levelled a blow which she hopes will prove deadly to the resources of Great Britain, and before the British government can, with safety, give up the measures of defence in consequence adopted by them, very strong proof must exist of the cessation, by France, of her novel and unprecedented measures.

I confess, sir, with the sincerest disposition to discover on the part of the ruler of France, a return to the long established practice of warfare as exercised in civilized Europe, I have been unable to succeed; and if the French government had really meant to withdraw their obnoxious decrees, it is inconceivable why, instead of allowing their intention to be guessed at or inferred, they should not openly and in plain language have declared so: the decrees themselves have been clearly enough announced on their enactment, why should not their revocation be equally explicit.

While, however, numerous declarations have been made on the part of France, of the continued existence of the decrees, and captures made under them of neutral ships have occurred, a few of the American vessels seized since November 1, have been restored, and the foregoing, a very small part of his plunder, is desired by Bonaparte to be considered as a proof of the sincerity of his revocation by America; but it must be recollected that besides the

object of ruining the British resources, by his own unauthorized regulations, he has also that of endeavouring to obtain the aid of the United States for the same purpose, and herein you will, as I had the honour to remark in a former letter, be able to observe the cause of the apparently contradictory language held both by himself and his ministers.

I should be extremely happy to receive from you, sir, the information that in a frank and unambiguous manner the chief of the French government had revoked his decrees. Why he should not do so is inexplicable, if he means to revert to the ordinary rules of war; but while he exercises such despotick sway wherever his influence extends, to ruin the resources of England, it cannot be expected that Great Britain shall not use the means she possesses for the purpose of making him feel the pressure of his own system. There is every reason to believe that ere long the effects on the enemies of Great Britain, will be such as irresistibly to produce a change which will place commerce on its former basis. In the mean time, sir, I hope you will not think it extraordinary if I should contend that the seizure of American ships by France, since November 1, and the positive and unqualified declarations of the French government, are stronger proofs of the continued existence of the French decrees, and the bad faith of the ruler of France, than the restoration of five or six vessels, too palpably given up for fallacious purposes, or in testimony of his satisfaction at the attitude taken by America, is a proof of their revocation, or of his return to principles of justice.

I will only repeat, sir, in answer to your observations, on the late condemnation of the ships taken under his majesty's orders in council, what I have already had the honour to state to you, that the delay which took place in their condemnation, was not a consequence of any doubt existing in his majesty's government, as to whether the French decrees were revoked, as you seem to imagine, but in consequence of its being thought that the American government, upon its appearing that they were deceived by France, would have ceased their injurious measures against the British commerce. A considerable time elapsed before the decision took place on those ships, and there is no doubt, but that had the United States' government not persisted in their unfriendly attitude towards Great Britain,

on discovering the ill faith of France, a spirit of conciliation in his majesty's government would have caused their release.

In reply to your observations, on these pretensions of Great Britain relative to the revocation of the French decrees, I beg to repeat that the sum of the demands made by England is, that France should follow the established laws of warfare as practised in former wars in Europe. Her ruler, by his decrees of Berlin and Milan, declared himself no longer bound by them; he has openly renounced them in his violent efforts to ruin the resources of Great Britain, and has trampled on the rights of independent nations to effect his purpose. If the French government make use of means of unprecedented violence, to prevent the intercourse of England with unoffending neutrals, can it be expected that England should tamely suffer the establishment of such a novel system of war without retaliation, and endeavouring in her turn to prevent the French from enjoying the advantages of which she is unlawfully deprived.

Having explained, already, the situation in which the question of the blockade of May, 1806, rests, according to the views of his majesty's government, and the desire of Great Britain to conduct her system of blockade according to the laws of nations, I will only advert to it on this occasion, for the purpose of taking the liberty of acknowledging to you the very great pleasure I received from the highly honourable mark of respect which you have taken the occasion to express for the illustrious statesman from whose counsels that measure emanated.

I need not repeat to you, sir, what sincere satisfaction it would give me if, without the sacrifice of the essential rights and interests of Great Britain, all the points in discussion between our two countries could be finally adjusted.

I have the honour to be, &c.

AUG. J. FOSTER.

To the Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster. Department of State, Oct. 29, 1811.

SIR,—I have had the honour to receive your letter of the 22d of this month, and to lay it before the President.

The assurance which you have given of your disposition to reciprocate, in our communications on the important subjects depending between our governments, the respectful attention which each has a right to claim, and that no departure from it was intended in your letter of the 26th July, has been received with the satisfaction due to the frank and conciliatory spirit in which it was made.

I learn, however, with much regret, that you have received no instructions from your government, founded on the new proof of the revocation of the Berlin and Milan decrees, which was communicated to the marquis of Wellesley, by the American charge d'affaires at London, in a document of which I had the honour to transmit to you a copy. It might fairly have been presumed, as I have before observed, that the evidence afforded by that document, of the complete revocation of those decrees, so far as they interfered with the commerce of the United States with the British dominions, would have been followed by an immediate repeal of the orders in council. From the reply of the marquis of Wellesley, it was at least to have been expected that no time had been lost in transmitting that document to you, and that the instructions accompanying it would have manifested a change in the sentiments of your government on the subject. The regret, therefore, cannot but be increased, in finding that the communication, which I had the honour to make to you, has not even had the effect of suspending your efforts to vindicate the perseverance of your government in enforcing those orders.

I regret also to observe, that the light in which you have viewed this document, and the remarks which you have made on the subject generally, seem to preclude any other view of the conditions on which those orders are to be revoked, than those that were furnished by your former communications. You still adhere to the pretension that the productions and manufactures of Great Britain, when neutralized, must be admitted into the ports of your enemies. This pretension, however vague the language heretofore

held by your government, particularly by the marquis of Wellesley in his communications with Mr. Pinkney on the subject, was never understood to have been embraced. Nothing, indeed, short of the specifick declarations which you have made, would have induced a belief that such was the case.

I have the honour to be, &c. &c.,

JAS. MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

Mr. Foster to Mr. Monroe. Washington, Oct. 31, 1811.

SIR,—I did not reply at great length to the observations contained in your letter of the 1st instant, on the pretensions of Great Britain as relative to the French system, because you seemed to me to have argued as if but a part of the system continued, and even that part had ceased to be considered as a measure of war against Great Britain. For me to have allowed this, would have been at once to allow in the face of facts that the decrees of France were repealed, and that her unprecedented measures, avowedly pursued in defiance of the laws of nations, were become mere ordinary regulations of trade. I therefore thought fit to confine my answer to your remarks, to a general statement of the sum of the demands of Great Britain, which was, that France should, by effectually revoking her decrees, revert to the usual method of carrying on war, as practised in civilized Europe.

The pretension of France to prohibit all commerce in articles of British origin, in every part of the continent, is one among the many violent innovations which are contained in the decrees, and which are preceded by the declaration of their being founded on a determination of the ruler of France, as he himself avowed, to revert to the principles which characterized the barbarism of the dark ages, and to forget all ideas of justice, and even the common feelings of humanity in the new method of carrying on war adopted by him.

It is not, however, a question with Great Britain of mere commercial interest, as you seem to suppose, which is involved in the attempt by Bonaparte to blockade her both by sea and land, but one of feeling and of national honour.

contending as we do against the principles which he professes in his new system of warfare. It is impossible for us to submit to the doctrine that he has a right to compel the whole continent to break off all intercourse with us, and to seize upon vessels belonging to neutral nations, upon the sole plea of their having visited an English port, or of their being laden with articles of British or colonial produce, in whatsoever manner acquired.

This pretension, however, is but a part of that system, the whole of which, under our construction of the letter of M. Champagny of August 5, 1810, corroborated by many subsequent declarations of the French government, and not invalidated by any unequivocal declaration of a contrary tenour, must be considered as still in full force.

In the communication which you lately transmitted to me, I am sorry to repeat that I was unable to discover any facts which satisfactorily proved that the decrees had been actually repealed, and I have already repeatedly stated the reasons which too probably led to the restoration of a few of the American ships taken in pursuance of the Berlin and Milan decrees after November 1. Mr. Russell does not seem to deny that the decrees may still be kept in force, only he thinks they have assumed a municipal character; but in M. Champagny's declaration, ambiguous as it was, there is no such division of them into two different characters; for if the contingency required by the French minister took place, the Berlin and Milan decrees were to cease, according to his expression, without any qualification. If therefore a part of them remain, or be revived again, as seems to be allowed even here, why may not the whole be equally so? Where proof can be obtained of their existence we have it, namely; in the ports of France in which vessels have been avowedly seized under their operation since November 1. Of their maritime existence we cannot so easily obtain evidence, because of the few French ships of war which venture to leave their harbours. Who can doubt, however, but that, had the ruler of France a navy at his command equal to the enforcing of his violent decrees, he would soon show that part of them to be no dead letter. The principle is not the less obnoxious because it is from necessity almost dormant for the moment; nor ought it therefore to be less an object to be strenuously resisted.

Allow me, sir, here to express my sincere regret that I have not as yet been able to convince you, by what I cannot but consider the strongest evidence, of the continued existence of the French decrees, and consequently of the unfriendly policy of your government in enforcing the non-importation against us and opening the trade with our enemies. His royal highness will, I am convinced, learn with unfeigned sorrow, that such continues to be still the determination of America, and whatever restrictions on the commerce enjoyed by America in his majesty's dominions may ensue on the part of Great Britain, as retaliatory on the refusal by your government to admit the productions of Great Britain while they open their harbours to those of his majesty's enemies; they will, I am persuaded, be adopted with sincere pain, and with pleasure relinquished whenever this country shall resume her neutral position and impartial attitude between the two belligerents.

I have the honour to be, &c. &c. &c.

AUG. J. FOSTER.

The Hon. James Monroe, &c.

CORRESPONDENCE RELATIVE TO THE BRITISH SLOOP OF WAR
LITTLE BELT.

*From Mr. Morier to Mr. Monroe. Baltimore, June 26,
1811.*

SIR,—I have the honour to enclose an official letter addressed to rear admiral Sawyer by captain Bingham, commanding his majesty's sloop the Little Belt, which contains an account of the late engagement between that ship and the American frigate the President.

In thus communicating to you without orders from his majesty's government this document, which in the most essential fact differs so materially from that of commodore Rodgers, I trust that this government will receive it as a proof of the sincere desire which exists with me, to open the way to an amicable arrangement of the question which

may arise out of this unfortunate affair, when it shall be known to his majesty's government.

I have the honour to be, &c. &c.

J. P. MORIER.

The Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Morier. Department of State, June 28, 1811.

SIR,—I had the honour to receive yesterday your letter of the 26th inst. communicating a statement from captain Bingham to admiral Sawyer, of the circumstances attending the late unfortunate encounter between the United States frigate the President, and his Britannick majesty's sloop the Little Belt.

It is to be regretted that the statement made by captain Bingham should have varied in any circumstance from that made by the commander of the American frigate. I flatter myself, with the disposition of the President, which I am authorized to express, to make it the subject of mutual and friendly explanations, that its disagreeable tendency will be obviated. I am induced to express this expectation with the more confidence, from the conciliatory manner in which you have made this communication.

I have the honour to be, &c.

JAMES MONROE.

Mr. Morier, Charge d'Affaires
of his Britannick Majesty.

Mr. Foster to Mr. Monroe. Washington, July 3, 1811.

SIR,—The assurances which you did me the honour to give me yesterday verbally, that no instructions whatever had been given to commodore Rodgers which could, under any construction, be meant to authorize his attempting to recover by force any person claimed as an impressed American citizen from on board any of his majesty's ships of war, were amply sufficient to convey to my mind every satisfaction upon that subject. The reports, however, current in the United States, and connected with commodore Rodgers' conduct and proceedings, as well, as the inferences which will be drawn from the expressions

which he used to the captain of his majesty's sloop *Little Belt*, being of a tendency to create doubts in Great Britain, as to the nature of the authority under which he acted, I willingly accept your offer of making me the same statement, in a more formal manner, in order that I may transmit it to my government, to prevent all possible mistake on so important a point.

The question arising out of the rencounter between the United States' frigate *President* and his majesty's sloop *Little Belt*, will then remain limited to the act itself. You are already, sir, in possession of the British commander's statement of the circumstances which attended it; his account and that of the American commodore differ very materially with respect to some of the most important features of the transaction; but in this they agree, that the chase which brought on the action commenced on the part of commodore Rodgers; for it cannot be maintained that the advance made by captain Bingham for the purpose of ascertaining if the sail descried by him was his majesty's ship *Guerriere*, which it appears he had orders to join, was for the purpose of chasing, even if that could be urged as a plea by the American commander. As soon as he found his signals unanswered, he bore away, until, to his infinite surprise, he found himself the object of the strange vessel's eager pursuit and hostile attitudes. What could be commodore Rodgers' intention is not apparent. That he could not discover at the distance of seventy or one hundred yards that the ship before him was a flush deck sloop, though it was but a little after eight o'clock on the 16th of May; that he could not make out her colours at half past six o'clock; that his guns were double shotted, and that with the security he possessed from the great force and superior sailing of the ship under his command, and the circumstance of belonging to a neutral nation, he did not rather hold off during the night if he wished to speak the sloop, than by running under her stern in a menacing attitude, incur the risk of provoking a misunderstanding, must appear unaccountable to the comprehension of every unprejudiced person, and will, I am sure, sir, seem to you a sufficient reason, if there were no other, to warrant my demanding that an examination be instituted into his conduct, with a view to suitable satisfaction being afforded to his majesty for the loss of so

many of his subjects so wantonly slaughtered, and for the insult offered to his flag. But should captain Bingham's charges be brought home to commodore Rodgers of his having refused to state the name of the nation he belonged to, though asked to do so on their nearing each other in the dark, and of having fired a broadside into the sloop without provocation, which might at once have sunk so small a vessel, I am convinced I need only appeal to the justice of the American government, for that government to see in its proper light the magnitude of the outrage, and offer to his majesty every reparation that can appear due.

It is with great pleasure, sir, that I avail myself of this opportunity to acknowledge the promptness with which you came forward with the assurances alluded to in the first part of this letter, and the readiness which you showed to receive any communications from me in regard to the unhappy occurrence which forms the subject of the remainder.

I have the honour to be, &c.

AUG. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

Mr. Monroe to Mr. Foster. Department of State, July 16, 1811.

SIR,—I have had the honour to receive your note respecting the late encounter between the American frigate the President, and his Britannick majesty's sloop of war the Little Belt.

It is very satisfactory to find that you received the communication which I had the honour to make to you, in our first interview, on the subject of your inquiry, relative to that unfortunate occurrence, in the amicable spirit in which it was intended. Although the excitement, which had been produced by previous and recent aggressions, particularly by the impressment of American citizens from American vessels, even on the coast of the United States, was great, yet no order had been given by the government for the recovery by force of any citizens so impressed, from any British ship of war. The orders given to the commanders of the frigates, and other armed vessels of

the United States, were for the protection of their coast, and of their commerce within the legitimate limits.

I need not repeat to you, sir, the sincere regret of this government, that such an encounter took place, and more especially that it should have produced the unfortunate consequences which attended it.

I have the honour to be, &c.

JAS. MONROE.

Augustus J. Foster, Esq. &c.

Mr. Foster to Mr. Monroe. Washington, July 24, 1811.

SIR,—I have had the honour to receive your letter dated on the 16th instant, in answer to mine of the 3d, in which I expressed a desire to have stated, in a more formal manner, your denial to me of orders having been given to commodore Rodgers, which could, under any construction, authorize that commander to attack any of his majesty's ships of war in search of any person claimed as an American seaman, and in which I also demanded that an examination should be instituted into that officer's conduct, with a view to suitable reparation being afforded to his majesty, for what appears a wanton and unprovoked attack made by the frigate under his command upon his majesty's sloop of war the *Little Belt*.

The denial I asked for you have given me, and I beg to assure you, sir, that though I troubled you with the demand, because the extensiveness of the rumour, which had attributed such orders to the American government, had made it my duty so to do, yet I never entertained an idea for one moment, that the government of the United States could have issued such orders, because they must have been considered as manifestations of direct intentions of hostility, which would have been incompatible with the relations of amity subsisting between America and Great Britain.

On such a point, sir, a simple denial was all I asked and what I expected to receive. It was therefore with pain that I found you had connected it with allusions to other topics, calculated to produce irritation, on which, whatever complaints you may have to make to me, I shall be ever ready to receive and forward them for redress to the

commander in chief of his majesty's naval forces at Halifax, or to his majesty's government; but the mentioning of which, in your note in answer to mine on a distinct subject of the most serious importance, you will pardon me if I must consider as matter of regret, especially as you wished me to receive the communication you made me, as given in an amicable spirit.

Moreover, from the tenour of the part of your letter in which you have connected the question of impressment with that of an attack on a British ship of war, an inference is forced upon me, which you surely never could have meant me to draw, but which, nevertheless, the passage conveys, namely—that *although* the government of the United States had not given orders for the recovery by force of any American citizen claimed from a British national ship, they still maintain they might have been justified in so doing. The right of searching a ship of war has been so positively disavowed on the part of his majesty's government, and so disclaimed by that of America, that I could not have expected any doubts would ever again have been thrown on the matter, and yet the language of your letter, until it is explained, will certainly authorize such doubts as far as relates to the American government.

I have no answer at all from you, sir, to my demand for an inquiry being instituted into the conduct of captain Rodgers. This omission has occasioned to me the more surprise, because in addition to there appearing to be no cause why the government of America should decline to listen to so just a demand on my part, there seemed to be every reason why they should, even for their own satisfaction, have desired to clear up the circumstances of his most extraordinary proceeding. I will indeed frankly own to you, that I did think, on reaching this city, to have found that officer's conduct already, by the spontaneous act of the government of the United States, undergoing an examination, instead of hearing that he had been sent immediately to sea again, which seemed to denote an approbation of his behaviour; and I thought I could the more rely on this being the course the President would have pursued, from a consideration of that which his majesty's government had taken in the case of the Chesapeake, when every reparation practicable, at the instant

the intelligence reached London of that unfortunate event, was made to you, sir, promptly and unasked for.

I feel the more regret, sir, at the course taken by your government in this affair, because I have been necessarily obliged, in consequence, to suspend carrying into execution that part of my instructions by which I was directed, immediately on my arrival here, to offer such further reparation for the attack on the Chesapeake frigate, as would, I am convinced, have proved satisfactory. I had the honour to state to you in our first interview, that I had such instructions, although I omitted to mention it in my note, because, as you may remember I expressed to you at the time, it seemed to me the American government might feel more free to act, as the justice of the case required, if the two subjects were kept unconnected; and in this opinion I thought you appeared to concur.

I have the honour to be, &c.

AUG. J. FOSTER.

To the Hon. James Monroe,
Secretary of State.

Mr. Foster to Mr. Monroc. Philadelphia, Sept. 4, 1811.

SIR,—I have now, by an express messenger from England, received the commands of his royal highness, the prince regent, acting in the name and on the behalf of his majesty, relative to the late violent aggression committed by the United States frigate, the President, on his majesty's ship Little Belt, and I have the honour of communicating to you the enclosed documents, which have been transmitted to me by my government to be laid before that of the United States, comprehending a copy of a letter from lord James Townshend, commanding officer at Halifax, dated May 30, 1811, (1); enclosing a statement of the action by the officers of the Little Belt, (2); the report of the commissioner of his majesty's navy board at Halifax, in respect to the damage done the Little Belt, (3); a copy of rear admiral Sawyer's letter, (4); enclosing his instructions to captain Bingham, (5); as well as a list of killed and wounded on board the sloop of war, (6); and, finally, a copy of the correspondence on the subject which took place between the marquis Wellesley and Mr. Smith,

American charge d'affaires in London, (7—8): of that of captain Bingham's official letter you are already in possession.

In communicating to you, sir, the documents, I am particularly directed to call your attention to the instructions of admiral Sawyer, which furnish the strongest evidence of the pacific and friendly intentions of his majesty's government towards this country. The very pointed manner in which the commander in chief on the Halifax station had enjoined captain Bingham to avoid giving offence to the government or subjects of the United States, is of itself presumptive proof of the truth of that officer's statement, even if there were not such strong evidence as appears from the deposition of the different officers on board his majesty's ship as to the action having been commenced by captain Rodgers.

His majesty's government were entitled to expect, as I have had already the honour to observe to you, sir, in my former letter, that the American government would have manifested a prompt disposition to obviate, by an early disavowal and by just reparation, the necessary tendency of such an event to disturb the friendship subsisting between the two states, and this expectation was the more natural from the example afforded by his majesty's government in the case of the Chesapeake.

Such, however, not having been the case, I am commanded by his royal highness to lose no time in communicating to you the papers enclosed, which explain in the fullest manner the circumstances of the transaction, and the very great extent of the outrage committed, by which so many valuable lives were sacrificed, and in demanding the immediate disavowal, on the part of the United States, of the act of aggression committed against his majesty's ship, as also in requiring a just reparation of the injury received.

I have the honour to be, &c.

AUG. J. FOSTER.

Hon James Monroe, &c. &c.

No. 1.

*Lord J. Townshend to Mr. Croker. H. M. Ship Æolus,
Halifax Harbour, May 30, 1811.*

SIR,—As it may be of material consequence that his majesty's government should have the earliest information of a circumstance that has taken place on this coast, I have forwarded, and request you will lay before my lords commissioners of the admiralty, the copy of a letter which captain Bingham of his majesty's sloop Little Belt has sent to rear admiral Sawyer, recounting a severe action which took place on the evening of the 16th instant, between that ship and the United States' frigate President.

After having considered the whole circumstance, and judging it advisable to procure the strongest documents in my power for their lordship's information, (the commander in chief not having returned from Bermuda) I have caused depositions to be taken of all the commissioned officers of the Little Belt, respecting the unpleasant business, which I herewith enclose.

I am, sir, &c. &c. &c.

J. TOWNSHEND.

To J. W. Croker, Esq. Admiralty.

No. 2.

Statement of the Officers of His Majesty's Sloop the Little Belt.

THE officers' of his majesty's sloop Little Belt statement of the action between that sloop and the United States' frigate President, on the evening of the 16th instant; taken before the right honourable lord James Townshend, captain of his majesty's ship Æolus, and senior officer at Halifax, Nova Scotia, Charles John Austin, Esq. captain of his majesty's ship Cleopatra, and Alexander Gordon, Esq. commander of his majesty's sloop Rattler.

Lieutenant Moberly, senior lieutenant, states, that on the 16th instant, while cruising off the coast of America, Cape Charles bearing west 54 miles, at 11 A. M. saw a strange sail; that she was a lugger, was reported from the mast head, on the starboard beam; we then steering S. S. W.

the wind aft or a little on the starboard quarter, on which took in our studding sails and hauled our wind for her on the starboard tack; shortly after, made her out to be a ship. At 2 30 P. M. having then made out the chase to be a frigate with a commodore's broad pendant flying, being then about six miles distance, and not having answered any of our signals, viz. 275, private signal, and our number, concluded her to be the American frigate United States; showed our colours and steered our course south, set studding sails; at 5 o'clock observed the frigate make all sail, and to keep more away for us; at 7 found she was gaining on us fast; captain Bingham then thinking it best to speak her before dark, shortened sail, and hove to, colours up, we then making out her stars in her broad pendant, beat to quarters and got all clear for action, a second time having beat, before, at 2 P. M. double shotted and double breached the guns; at 7 50 observed the frigate to have shortened sail to topsails, topgallant sails and jib, and standing down as if with an intention of passing under our stern, wore twice to evade this: captain Bingham hailed, and was not answered; wore again; the frigate then hove to close to us on the larboard beam, captain Bingham hailed the ship ahoy, which was repeated word for word by the frigate; captain Bingham asked what ship that was, which was also repeated as before, and on asking a second time was answered by a broadside; captain Bingham was then standing on the midship gun, jumped off and gave orders to fire, which was done in less than a minute after her first fire, we being quite ready, guns pointed, and continued firing for about an hour, when the frigate ceased firing, and hailed us to know what ship this was; captain Bingham answered his majesty's ship Little Belt several times before he understood us; he then asked if our colours were down. No, was captain Bingham's answer; captain Bingham then hailed to know what ship that was, and was answered, the United States' frigate, the name we could not understand; in the mean time the frigate had filled and was standing from us; a short time after lost sight of her, hove to for the night, having no sail to set. At daylight saw a sail to windward, made her out to be the same ship we had engaged; at six she bore up for us under easy sail;

at eight she passed within hail, asked permission to send a boat on board, which was granted; boat came on board, staid ten minutes, then returned; understood the frigate to be the President, belonging to the United States, commodore Rodgers; observed the President to fill, and stand on the starboard tack under her topsails.

Lieutenant Thomas Levell states, that on May 16, 1811, at 11 A. M. saw a strange sail from the mast head, which was reported to be a lugger, having her main top gallant sail handed, fore and mizzen set; we were then going nearly before the wind, turned the hands up, took in studding sails, and made sail in chase on the starboard tack; at 1 30 observed her to be a frigate, made the private signal, our number also, 275, neither of which she answered; observing her to have a blue broad pendant at her mast head; at 2 wore ship, and steered our course south, hoisted our colours, observed her to be in chase of us, supposed her to be an American frigate, cleared ship for action. At 5 beat to quarters a second time, double shotted the guns, and double breached those that were bad. At 7 30 shortened sail and hove to, as she was coming up with us very fast, hoisted our colours, observed the stars in his broad pendant, wore ship three or four times to prevent his passing under our stern which he evidently intended. At 8 hailed her when on the starboard beam, but received no answer; wore ship. At 8 10 she hauled her foresail up, and hove to within half pistol shot of our weather beam. Captain Bingham standing on the gun abaft the larboard gangway, hailed the ship ahoy! which words were repeated. Captain Bingham hailed again, what ship is that? which was again also repeated word for word, and she immediately fired a broadside; captain Bingham jumped off the gun and gave orders to fire, which we did instantly, the captains of the guns standing with the lanyards of the locks in their hands, and the guns pointed at her, continued firing about an hour, when she ceased and hailed us, what ship is that? Captain Bingham replied, his majesty's ship Little Belt several times before he understood us; he then asked what ship that was? They answered the United States' frigate, the name we did not understand, and asked if our colours were down? Captain Bingham answered no! He then filled on the starboard tack, we very soon lost sight of her; continued all night refit-

ting ; at daylight observed her laying to, to windward, about 8 or 10 miles. About 6 she bore down under her topsails and foresail. At 8 he hailed ship ahoy ! I'll send a boat on board if you please, sir. Very well, sir, was captain Bingham's answer. The boat came on board, and remained about ten minutes, or a quarter of an hour ; after which he wore, and stood to the westward under his topsails.

Latitude 36 53, longitude 71 49. Cape Charles bearing west 50 miles.

Mr. James Franklin, boatswain, states, at half past 6 o'clock observed the frigate coming up under studding-sails on both sides ; about half past 7 shortened sail and brought to, hoisted the colours ; at a quarter before 8 hailed, no answer, wore ship ; about two minutes before 8 the ship was hailed ; the captain's words were repeated twice, without making any answer ; then he fired a whole broadside ; about a minute returned a broadside from us, continued firing for about an hour, and then he ceased firing and hailed, and asked what ship this was, and he was answered by the captain the Little Belt, and he then asked if the colours were down, the answer was, No, and I heard the captain say they should not come down, and ordered the starboard guns to be manned ; then the captain hailed to know what ship that was ; being under the fore-castle, wounded, I could not hear the answer. I then came down below, and there was no more firing after.

Mr. Hinshelwood, purser, states, that on the 16th inst. at 11 A. M. saw a strange sail, made sail in chase of her ; 1 30 observed her to be a frigate, made the private signal, our number and 275, neither of which were answered ; at 2, made out a commodore's broad pendant, apparently an American, cleared for quarters, observed the frigate to be in chase of us ; at 5, beat to quarters a second time ; 7 30, hove to and hoisted our colours ; at 8, hailed her, no answer, wore ship ; at 8 10, she hove to, close to windward of us ; captain Bingham standing on the gun abaft the larboard gangway, hailed, Ahoy ! the ship, which they repeated ; capt. B. asked, What ship is that ? which was also repeated, and immediately gave us a broadside, commencing firing from the midships of the deck ; captain B. jumped off the gun and gave orders to fire, which was instantly done ; continued firing about an hour, observed the frigate

to leave off firing; she hailed at the same time, and asked what ship this was; captain B. answered, his Britannick majesty's ship Little Belt, six or seven times before they understood; he then asked if our colours were down, to which capt. B. answered, No, and asked what ship that was; she answered, the United States' ship, the name we could not understand; she then made sail; at daylight, observed her to windward; at 6 she bore down, at 8 passed within hail, hailed the ship, and said he would send a boat on board, if capt. B. pleased; a boat came on board, and remained about a quarter of an hour; she then made sail to the westward.

Mr. William Turner, surgeon, states, that when steering to the southward from off New York, on May 16th, 1811, at 11 A. M. a strange sail was reported to the westward, which was immediately given chase to; on nearing, observed her to be a frigate, standing to the eastward, with an American broad pendant at her main-top-gallant-mast-head. We then resumed our course to the southward, and showed the ensign and pendant; stranger observed shortly after to alter her course to join us; when the Little Belt made more sail, strange frigate did the same; finding the stranger joined us fast, prepared for action, shortened sail and hove to, sometime before sunset. Immediately after the Little Belt hove to, the strange frigate shortened sail, coming down very slowly. I shortly after went below. At ten minutes past 8 o'clock P. M. captain Bingham hailed the stranger twice, very loudly, but received no answer; about five minutes after, captain B. again hailed, and was answered from the frigate, to what purport I could not distinctly understand; captain B. again hailed twice, and immediately heard the frigate fire, and the whole passed over us. I then distinctly heard capt. B. give orders to fire away; we returned our broadside within the space of twenty seconds. The action continued with great vigour for about forty-five minutes, to the best of my judgment.

We, the undersigned, have duly examined the officers herein named, belonging to his majesty's sloop Little Belt, respecting the attack made on that ship by the United States frigate President, have received the above as a true statement of all the occurrences.

In witness whereof we have hereunto set our hands, on board his majesty's ship *Æolus*, Halifax harbour, Nova-Scotia, the 29th of May, 1811.

J. TOWNSHEND,
CHARLES JNO. AUSTIN,
ALEXR. GORDON.

No. 3.

*Commissioner Inglefield to the Navy Board. Halifax
Yard, May 30, 1811.*

GENTLEMEN,—I acquaint the board that his majesty's sloop the *Little Belt*, returned to this port on Sunday last, almost a wreck, having on the 16th instant, off the Chesapeake, had an action, which lasted three quarters of an hour, with the American frigate the *President*, one of their heaviest ships, carrying upwards of fifty guns.

Having directed the master shipwright to examine her defects, I received from him the report which is herewith enclosed for the information of the board, and for the satisfaction of the lords commissioners of the admiralty, in ascertaining the extent of the injury received.

In addition to the damages detailed in the builders report, her sails and rigging are cut to pieces by shot.

I have the honour to be, &c.

J. N. INGLEFIELD.

To the Hon. the Navy Board.

Enclosure in Commissioner Inglefield's Letter to the Navy Board.

HALIFAX YARD, MAY 28, 1811.

*Report of the State and Condition of His Majesty's Sloop
Little Belt.*

THE short plank abaft the after port, with top timbers, spirketting and quick work above the spirketting of the larboard side much damaged by shot.

The strings and sheer strakes of each side, shot away in midships, and abreast of the fore channels of the larboard side.

The gunwales, and part of the hammock stantion boards and rails in midships shot away.

Several of the fore and main chains and bolts of ditto, shot away.

The top timbers and strings in the way of the fore channel, and iron standards and larboard main bitt, shot away.

Several of the port timbers and lower hanging ports of the larboard side, much damaged by shot.

Part of the water ways, spirketting, and oak work of the upper deck, and timbers in the way of ditto, much damaged by the shot.

Part of the wales of the larboard side and plank of the top sides much damaged by shot.

A number of shot holes at load water mark and below ditto.

Part of the copper damaged.

The midship port timber damaged.

One beam and several planks of the poop deck much damaged by shot.

One pump between decks shot through.

The plank under the clamps much damaged.

Gun room and cabin sky lights much damaged.

One bumkin wanted.

Cabins in want of repair.

New tin work in the galley wanted.

Two planks in the upper deck decayed and want shifting.

Several shot racks wanting.

Bowsprit shot through in the wake of the gammoning.

Foremast shot through in two places.

Mainmast ditto.

Mizzen mast shot through above the cap.

Mizzen top gallant mast shot away.

Fore yard damaged by shot on the larboard quarter.

Cross jack-yard damaged by shot.

Drives boom decayed.

Main top sail yard damaged by shot.

●One main topmast, One fore topmast, One fore topsail yard, One fore top gallant mast, One mizzen top gallant mast, One main topsail yard, Spare spars on the booms, Also several others, A swinging boom wanted. The jolly boat and launch much damaged by the shot.	}	All damaged and shattered by the shot.
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WM. HUGHES, Master Shipwright.
J. PARRYIE, Foreman do.

No. 4.

Copy of a Letter from Rear Admiral Sawyer to J. W. Croker, Esq. H. M. Ship Africa, at Bermuda, June 11, 1811.

SIR,—Enclosed I transmit to you, for the information of the lords commissioners of the admiralty, a copy of a letter from captain Arthur Batt Bingham, commander of his majesty's sloop *Little Belt*, received this day from lord James Townshend, captain of his majesty's ship *Æolus*, and senior officer at Halifax, by which their lordships will perceive he was attacked on the evening of May 16th last, when cruising between Cape Henry and Cape Hatteras, by the United States frigate the *President*, of 44 guns, commanded by commodore Rodgers, and that after a close action of three quarters of an hour, the American ship made sail from him.

Captain Bingham's modest, but full and clear statement, renders any comment from me unnecessary; and I have only to admire the extraordinary bravery and firmness with which himself, his officers and ship's company, supported the honour of the British flag, when opposed to such an immense superiority of force. I have, however, deeply to lament the number of valuable British seamen and royal marines who have been killed or wounded on this unexpected occasion, a list of whose names is also enclosed, together with a copy of my order, under which captain Bingham was cruising.

I have the honour to be, &c.

HERBERT SAWYER, Rear Admiral.

J. W. Croker, Esq.

No. 5.

Copy of Rear Admiral Sawyer's Instructions to Captain Bingham, of his Majesty's Sloop Little Belt.

By Herbert Sawyer, Esq. Rear Admiral of the Red, and Commander in Chief of His Majesty's Ships and Vessels employed and to be employed in the River St. Lawrence, along the Coast of Nova Scotia, the Islands of Anticoste, Madeline, and St. John, and Cape Breton, the Bay of Fundy, and at and about the Island of Bermuda, or Somers' Islands.

You are hereby required and directed to put to sea in his majesty's sloop under your command, and proceed, without loss of time, off Charleston, where you may expect to meet captain Pechell, in the Guerriere, to whom you will deliver the packet you will herewith receive, and follow his orders for your further proceedings. Should you not meet the Guerriere off Charleston, you will stand to the northward, and use your utmost endeavours to join him off the capes of Virginia or off New York, and in the event of not meeting the Guerriere you will cruise as long as your provisions and water will last, and then repair to Halifax for further orders. You are to pay due regard to protecting the trade of his majesty's subjects, and the capture or destruction of the ships of the enemy. You are to be particularly careful not to give any just cause of offence to the government or subjects of the United States of America, and to give very particular orders to this effect to the officers you may have occasion to send on board ships under the American flag. You are not to anchor in any of the American ports, but in case of absolute necessity; and then put to sea again as soon as possible.

Given under my hand at Bermuda, this 19th of April, 1811.

HERBERT SAWYER.

By Command of the Rear Admiral.

H. W. SOMERVILLE.

To Arthur Batt Bingham, Esq.

Commander of his Majesty's Sloop Little Belt.

No. 6.

Return of Officers, Petty Officers, Seamen and Marines killed and wounded on board His Majesty's Sloop Little Belt, Arthur Batt Bingham, Esq. Commander, in Action with the American Frigate President, the 16th of May, 1811.

Killed—Mr. Samuel Woodward, midshipman, Charles Bennet, captain foretop, Jacob Greaves, carpenter's crew, Wm. Shippard, gunner's mate, George Wilson, able, Robert Liversage, able, Jas. Gray, ordinary, Rt. Harwood, ordinary, John Pardoe, private marine. *Dangerously wounded*—Danl. Killham, L. M. died ten hours after the action; Robert Coody, ordinary, John Randall, able, Nicholas Manager, gunner's crew, died 20 hours after the action. *Severely wounded*—Mr. J. M'Queen, acting master, Jas. Dunn, (2) captain main top, James Lawrence, able, John Richards, able, Thomas Ives, able, Michael Skinners, L. M., Wm. Fern, boy, David Dowd, marine, Wm. Harold, marine. *Slightly wounded*—Jas. Franklin, boatswain, Benj. Angel, carpenter, Peter M'Cashell, cap. mast, Wm. Andrews, ordinary, Wm. Western, boy, Edward Graham, able, George Dalany, able, George Roberts, boy, George Shoard, marine, Daniel Long, marine.

A. B. BINGHAM, Capt.

WM. TURNER, 2d Surg.

No. 7.

Lord Wellesley to Mr. J. S. Smith. Foreign Office, July 2, 1811.

SIR,—I am commanded by his royal highness, the prince regent, to transmit to you the enclosed official documents, and to request that you will be pleased to furnish me with any explanation which you may have received from the government of the United States, of the transaction to which they refer.

I have the honour to be, &c.

WELLESLEY.

J. S. Smith, Esq. &c.

VOL. VIII.

16

No. 8.

*Mr. J. S. Smith to the Marquis Wellesley. Bentinck Street,
July 3, 1811.*

MY LORD,—I have the honour to acknowledge the reception of the documents transmitted to me yesterday by your lordship, and in reply to the request that I should furnish an explanation of the transaction to which they refer, have to state that to this moment no information has been received by me from my government on this subject; but from the known justice of the United States, and their uniform desire to preserve harmony with Great Britain, his majesty's government can be assured that they will never be unwilling to repair any injury they are conscious of having committed.

I have the honour to be, &c.

J. S. SMITH.

The Most Noble the Marquis Wellesley.

*Mr. Monroe to Mr. Foster. Department of State, Sept.
14, 1811.*

SIR,—I have had the honour to receive your letter of the 4th inst. respecting the encounter between the United States' frigate the President and his Britannick majesty's ship Little Belt, which I have laid before the President of the United States.

In the first interview which took place between us, after your arrival at Washington, I stated explicitly that no instruction had been given to take any seaman from on board a British ship of war, nor any order whatever of a hostile nature. I made the same declaration afterwards, at your request, in a more formal manner; and it is with the same frankness that I now again repeat it.

Such a declaration was deemed proper in order to obviate misapprehensions, which might obstruct any conciliatory and satisfactory propositions with which you might be charged. It was in conformity also with the candour and friendly policy which have been shown by this government, in all its transactions with Great Britain.

If the answer to your former letter was limited to the disavowal, of hostile intentions on the part of this govern-

ment, it need scarcely be remarked that no further view of the subject could then, nor as yet can, be entered into, on the demand of the British government, without forgetting an essential preliminary to such a demand.

It might be added, that with the circumstances of the transaction, as officially before this government, the true ground on which it claimed attention, was that of a violent aggression by a British on an American ship, in a situation and manner authorizing the strongest appeal to the British government for redress. If an instant representation and demand to that effect were not made, it was a proof only that this government permitted the event of the encounter to temper the feelings and retard the complaint, prompted by the origin and character of it.

It is not seen without surprise, that the case of the Chesapeake is cited as an example, supporting a demand of reparation, in the present case. No other remark will be made, than that the fifth year is now elapsing without reparation in that case, although so palpably and even confessedly due to the rights of the United States, and the honour of their flag.

In the instruction to captain Bingham thus frankly communicated, the President sees a token of amity and conciliation, which, if pursued in the extent corresponding with that in which these sentiments are entertained by the United States, must hasten a termination of every controversy which has so long subsisted between the two countries.

I have the honour to be, &c.

JAMES MONROE.

Augustus J. Foster, Esq. &c.

Mr. Monroe to Mr. Foster. Department of State, Oct. 11, 1811.

SIR,—I have the honour to transmit to you a copy of the proceedings of a court of inquiry, held by order of the President, on the conduct of commodore Rodgers, in the late encounter between a frigate of the United States, the President, and his Britannick majesty's ship the *Little Belt*.

The result of this inquiry, which was conducted in public, in a manner the most fair and impartial, and establish-

ed by the concurrent testimony of all the officers of the American ship, and of others whom it was proper to summon, cannot, it is presumed, leave a doubt in the mind of any one that captain Bingham made the attack, and without a justifiable cause.

That commodore Rodgers pursued a vessel which had at first pursued him, and hailed her as soon as he approached within a suitable distance, are circumstances which can be of no avail to captain Bingham. The United States have a right to know the national character of the armed ships which hover on their coast, and whether they visit it with friendly or illicit views. It is a right inseparable from the sovereignty of every independent state, and intimately connected with their tranquillity and peace. All nations exercise it, and none with more rigour, or at a greater distance from the coast, than Great Britain herself, nor any on more justifiable grounds than the United States. In addition to the considerations which have recommended this precaution to other powers, it is rendered of the more importance to the United States, by the practice of armed vessels from the West Indies, in visiting our coast for unauthorized and even piratical purposes. Instances have also occurred, in which the commanders of British ships of war, after impressing seamen from American vessels, have concealed their names, and the names of their ships, whereby an application to their government for the reparation due for such outrages, with the requisite certainty, is rendered impracticable. For these reasons, the conduct of commodore Rodgers in approaching the Little Belt to make the necessary inquiries, and exchange a friendly salute, was strictly correct.

The President, therefore, can regard the act of captain Bingham no otherwise than as a hostile aggression on the flag of the United States, and he is persuaded that his Britannick majesty, viewing it in the same light, will bestow on it the attention which it merits.

I have the honour to be, &c.

JAMES MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

Mr. Foster to Mr. Monroe. Washington, October 24, 1811.

SIR,—I have had the honour to receive your letter of the 11th instant, enclosing a copy of the proceedings of a court of inquiry held by order of the President of the United States on the conduct of commodore Rodgers, in the late encounter between a frigate of the United States, the President, and his majesty's ship the Little Belt, fixing on captain Bingham the charge of having commenced the engagement, and claiming in consequence the attention of his majesty's government towards it, as to an act of hostility on the part of the British officer.

I may be permitted to remind you, sir, that after I had ascertained from you, that no hostile intentions on the part of the government of the United States were connected with the proceedings of captain Rodgers, all I asked in the first instance was, that the President of the United States would be pleased to order an inquiry into his conduct, which had tended so seriously to interrupt the harmony subsisting between our two countries, and which, having hitherto received no palliation whatever from any evidence in contradiction to captain Bingham's statement, as officially transmitted to his majesty's government, must have continued to appear to them to be utterly incapable of receiving any.

The document you have now done me the honour to communicate to me, with the copy annexed of captain Rodgers' letter (for the first time officially before me,) is, however, so far satisfactory, as it shows that captain Rodgers has endeavoured to exculpate himself, exhibiting the ground on which he rests his defence, and I shall without delay transmit it to be laid before his royal highness the prince regent. It certainly proves a most unaccountable difference to exist between the statement of the commander and officers of the Little Belt, and those of the President, as to the firing of the first gun; but I must remark, that from the concurrent testimony of several of the officers of the United States' ship, as to the orders given by captain Rodgers on nearing the Little Belt, there appears to have been an impression on his mind, that an encounter was to ensue; and, as the Little Belt was evidently endeavouring to avoid him, such an idea, it would seem, could only have

arisen from the opinion he entertained of his own proceedings as being likely to bring it on.

I take this occasion to acknowledge the receipt of your letter dated Sept. 14th, in answer to mine of the 2d, a copy of which I immediately forwarded to my government.

I have the honour to be, &c.

AUG. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

CORRESPONDENCE RELATIVE TO THE FLORIDAS.

Mr. Foster to Mr. Monroe. Washington, July 2, 1811.

SIR,—The attention of his majesty's government has of late been called to the measures pursued by the United States, for the military occupation of West Florida. The language held by the President, at the opening of the late session of Congress, the hostile demonstrations made by the American forces under captain Gaines, the actual summoning of the fort of Mobile, and the bill submitted to the approbation of the American legislature, for the interior administration of the province, are so many direct and positive proofs that the government of America is prepared to subject the province of West Florida to the authority of the United States.

The Spanish minister in London addressed a note, in the month of March last, to his majesty's secretary of state for foreign affairs, expressing in sufficient detail the feelings of the government of Spain, respecting this unprovoked aggression on the integrity of that monarchy.

Mr. Morier in his note to Mr. Smith of December 15, 1810, has already reminded the American government of the intimate alliance subsisting between his majesty and Spain, and he has desired such explanations on the subject, as might convince his majesty of the pacifick disposition of the United States towards Spain. Mr. Smith in his reply has stated, it was evident that no hostile or unfriendly purpose was entertained by America towards Spain; and that the American minister at his majesty's court, had been enabled to make whatever explanations might comport with

the frank and conciliatory spirit which had been invariably manifested on the part of the United States.

Since the date of this correspondence Mr. Pinkney has offered no explanation whatever, of the motives which have actuated the conduct of the United States in this transaction; a bill has been introduced into Congress for the establishment, government, and protection of the territory of the Mobile, and the fortress of that name has been summoned without effect.

His royal highness, the prince regent, in the name and on the behalf of his majesty, is still willing to hope, that the American government has not been urged to this step by ambitious motives, or by a desire of foreign conquest, and territorial aggrandizement. It would be satisfactory, however, to be enabled to ascertain that no consideration, connected with the present state of Spain, has induced America to despoil that monarchy of a valuable foreign colony.

The government of the United States contends that the right to the possession of a certain part of West Florida, will not be less open to discussion in the occupation of America, than under the government of Spain.

But the government of the United States, under this pretext, cannot expect to avoid the reproach, which must attend the ungenerous and unprovoked seizure of a foreign colony, while the parent state is engaged in a noble contest for independence, against a most unjustifiable and violent invasion of the rights both of the monarch and people of Spain.

While I wait, therefore, for an explanation from you, sir, as to the motives which led to this unjust aggression by the United States, on the territories of his majesty's ally, I must consider it as my duty to lose no time in fulfilling the orders of his royal highness, the prince regent, by which I am commanded, in the event of its appearing on my arrival in this city, that the United States still persevere by menaces and active demonstration to claim the military occupation of West Florida, notwithstanding the remonstrances of his majesty's charge d'affaires, and the manifest injustice of the act, to present to you the solemn protest of his royal highness, in the name and on the behalf of his majesty, against an attempt so contrary to every principle of publick justice, faith, and national honour.

and so injurious to the alliance subsisting between his majesty and the Spanish nation.

I have the honour to be, &c. &c. &c.

AUG. J. FOSTER.

The Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster. Department of State, July 8, 1811.

SIR,—I have had the honour to receive the note which you have presented, by the order of his royal highness the prince regent, to protest, in behalf of the regency of Spain, against the possession lately taken, by the United States, of certain parts of West Florida.

Although the President cannot admit the right of Great Britain to interfere in any question relating to that province, he is willing to explain, in a friendly manner, the considerations which induced the United States to take the step, against which you have been ordered to protest.

It is to be inferred from your view of the subject, that the British government has been taught to believe, that the United States seized a moment of national embarrassment, to wrest from Spain a province to which they had no right, and that they were prompted to it by their interest alone, and a knowledge that Spain could not defend it. Nothing, however, is more remote from the fact, than the presumption on which your government appears to have acted. Examples of so unworthy a conduct, are unfortunately too frequent in the history of nations; but the United States have not followed them. The President had persuaded himself that the unequivocal proofs which the United States have given, in all their transactions with foreign powers, and particularly with Spain, of an upright and liberal policy, would have shielded them from so unmerited a suspicion. He is satisfied that nothing is wanting but a correct knowledge of facts, completely to dissipate it.

I might bring to your view a long catalogue of injuries, which the United States have received from Spain, since the conclusion of their revolutionary war, any one of which would most probably have been considered cause of war, and resented as such, by other powers. I will mention two

of these only ; the spoliations that were committed on their commerce to a great amount in the last war, and the suppression of their deposit at New Orleans just before the commencement of the present war, in violation of a solemn treaty ; for neither of which injuries has any reparation or atonement been made. For injuries like those of the first class, it is known to you that Great Britain and France made indemnity. The United States, however, do not rely on these injuries for a justification of their conduct in this transaction ; although their claims to reparation for them are by no means relinquished, and, it is to be presumed, will not always be neglected.

When I inform you that the province of West Florida, to the Perdido, was a part of Louisiana, while the whole province formerly belonged to France ; that although it was afterwards separated from the other part, yet that both parts were again re-united, in the hands of Spain, and by her re-conveyed to France, in which state the entire province of Louisiana was ceded to the United States in 1803 ; that in accepting the cession, and paying for the territory ceded, the United States understood and believed, that they paid for the country as far as the Perdido, as part of Louisiana ; and that, on a conviction of their right, they included in their laws provisions adapted to the cession in that extent ; it cannot fail to be a cause of surprise to the prince regent, that they did not proceed to take possession of the territory in question as soon as the treaty was ratified. There was nothing in the circumstances of Spain, at that time, that could have forbidden the measure. In denying the right of the United States to this territory, her government invited negotiation on that, and every other point, in contestation between the parties. The United States accepted the invitation, in the hope that it would secure an adjustment, and reparation for every injury which had been received, and lead to the restoration of perfect harmony between the two countries ; but in that hope they were disappointed.

Since the year 1805, the period of the last negotiation, with Spain, the province of West Florida has remained in a situation altogether incompatible with the welfare of these States. The government of Spain has scarcely been felt there ; in consequence of which the affairs of that province had fallen into disorder. Of that circumstance,

however, the United States took no advantage. It was not until the last year, when the inhabitants, perceiving that all authority over them had ceased, rose in a body with intention to take the country into their own hands, that the American government interposed. It was impossible for the United States to behold, with indifference, a movement in which they were so deeply interested. The President would have incurred the censure of the nation, if he had suffered that province to be wrested from the United States, under a pretext of wresting it from Spain. In taking possession of it, in their name, and under their authority, except in the part which was occupied by the Spanish troops, who have not been disturbed, he defended the rights and secured the peace of the nation, and even consulted the honour of Spain herself. By this event the United States have acquired no new title to West Florida. They wanted none. In adjusting hereafter all the other points which remain to be adjusted with Spain, and which it is proposed to make the subject of amicable negotiation as soon as the government of Spain shall be settled, her claim to this territory may also be brought into view, and receive all the attention which is due to it.

Aware that this transaction might be misconceived and misrepresented, the President deemed it a proper subject of instruction to the ministers of the United States at foreign courts, to place it in a true light before them. Such an instruction was forwarded to Mr. Pinkney, their late minister plenipotentiary at London, who would have executed it, had not the termination of his mission prevented it. The President cannot doubt that the frank and candid explanation, which I have now given, by his order, of the considerations which induced the United States to take possession of this country, will be perfectly satisfactory to his royal highness the prince regent.

With great respect and consideration, I have the honour to be, &c.

JAS. MONROE.

. Augustus J. Foster, Esq. &c. &c.

Mr. Foster to Mr. Monroe. Philadelphia, September 5, 1811.

SIR,—The chevalier D'Onis, who has been appointed minister from his catholick majesty to the United States, has written to inform me, that he understands by letters from the governour of East Florida, under date of the 14th ultimo, that governour Matthews, of the state of Geōrgia, was at that time at Newtown, St. Mary, on the frontiers of Florida, for the purpose of treating with the inhabitants of that province for its being delivered up to the United States' government; that he was with this view using every method of seduction to effect his purpose, offering to each white inhabitant who would side with him fifty acres of land and the guaranty of his religion and property; stipulating also that the American government would pay the debts of the Spanish government, whether due in pensions or otherwise; and that he would cause the officers and soldiers of the garrisons to be conveyed to such place as should be indicated, provided they did not rather choose to enter into the service of the United States.

M. D'Onis has done me the honour to communicate to me a note which he purposes transmitting to you, sir, in consequence of this detailed and most extraordinary intelligence; and considering the intimate alliance subsisting between Spain and Great Britain, as well as the circumstances under which he is placed in this country, he has urgently requested that I would accompany his representation with a letter on my part in support of it.

After the solemn asseverations which you gave me in the month of July, that no intentions hostile to the Spanish interests in Florida existed on the part of your government, I am wholly unable to suppose that general Matthews can have had orders from the President for the conduct which he is stated to be pursuing; but the measures he is said to be taking in corresponding with traitors, and in endeavouring by bribery and every art of seduction to infuse a spirit of rebellion into the subjects of the king of Spain in those quarters, are such as to create the liveliest inquietude, and to call for the most early interference on the part of the government of the United States.

The government of the United States are well aware of the deep interest which his royal highness, the prince regent, takes in the security of Florida, for any attempt to occupy the eastern part of which by the United States, not even the slightest pretexts could be alleged, such as were brought forward in the endeavour to justify the aggression on West Florida.

I conceive it therefore to be my duty, sir, in consideration of the alliance subsisting between Spain and Great Britain, and the interests of his majesty's subjects in the West India islands, so deeply involved in the security of East Florida, as well as in pursuance of the orders of my government in case of any attempt against that country, to lose no time in calling upon you for an explanation of the alarming steps which governour Matthews is stated to be taking for subverting the Spanish authority in that country, requesting to be informed by you upon what authority he can be acting, and what measures have been taken to put a stop to his proceedings.

I have the honour to be, &c.

AUG. J. FOSTER.

The Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster. November 2, 1811.

SIR,—I have had the honour to receive your letter of September 5th, and to submit it to the view of the President.

The principles which have governed the United States in their measures relative to West Florida, have already been explained to you. With equal frankness I shall now communicate the part they have acted with respect to East Florida.

In the letter which I had the honour to address to you on the 8th of July, I stated the injuries which the United States had received from Spain since their revolutionary war, and particularly by spoliations on their commerce, in the last war to a great amount, and of the suppression of their right of deposit at New Orleans just before the commencement of the present war, for neither of which had reparation been made. A claim to indemnity for those injuries, is altogether unconnected with the question relat-

ing to West Florida, which was acquired by cession from France, in 1803.

The government of Spain has never denied the right of the United States to a just indemnity for spoliation on their commerce. In 1802, it explicitly admitted this right by entering into a convention, the subject of which was to adjust the amount of the claim, with a view to indemnity. The subsequent injury, by the suppression of the deposit of New Orleans, produced an important change in the relations between the parties, which has never been accommodated. The United States saw in that measure eminent cause of war; and, that war did not immediately follow it, cannot be considered in any other light than as a proof of their moderation and pacific policy. The Executive could not believe that the government of Spain would refuse to the United States the justice due for these accumulated injuries, when the subject should be brought solemnly before it by a special mission. It is known that an envoy extraordinary was sent to Madrid in 1805, on this subject, and that the mission did not accomplish the object intended by it.

It is proper to observe that in the negotiation with Spain, in 1805, the injuries complained of by the United States, of the first class, were again substantially admitted, to a certain extent, as was that also occasioned by the suppression of the deposit at New Orleans, although the Spanish government, by disclaiming the act, and imputing it to the intendant, sought to avoid the responsibility due from it; that to make indemnity to the United States for injuries of every kind, a cession of the whole territory claimed by Spain eastward of the Mississippi, was made the subject of negotiation, and that the amount of the sum demanded for it, was the sole cause that a treaty was not then formed, and the territory added.

The United States have considered the government of Spain indebted to them a greater sum for the injuries above stated, than the province of East Florida can, by any fair standard between the parties, be estimated at. They have looked to this province for their indemnity, and with the greater reason, because the government of Spain itself has countenanced it. That they have suffered their just claims to remain so long unsatisfied, is a new and strong proof of their moderation, as it is of their respect

for the disordered condition of that power. There is, however, a period beyond which those claims ought not to be neglected. It would be highly improper for the United States, in their respect for Spain, to forget what they owe to their own character, and to the rights of their injured citizens.

Under these circumstances it would be equally unjust and dishonourable in the United States to suffer East Florida to pass into the possession of any other power. Unjust, because they would thereby lose the only indemnity within their reach, for injuries which ought long since to have been redressed. Dishonourable, because in permitting another power to wrest from them that indemnity, their inactivity and acquiescence could only be imputed to unworthy motives. Situated as East Florida is, cut off from the other possessions of Spain, and surrounded in a great measure by the territory of the United States; and having also an important bearing on their commerce, no other power could think of taking possession of it, with other than hostile views to them. Nor could any other power take possession of it without endangering their prosperity and best interests.

The United States have not been ignorant or inattentive to what has been agitated in Europe at different periods since the commencement of the present war, in regard to the Spanish provinces in this hemisphere; nor have they been unmindful of the consequences into which the disorder of Spain might lead in regard to the province in question, without due care to prevent it. They have been persuaded, that remissness on their part might invite the danger, if it had not already done it, which it is so much their interest and desire to prevent. Deeply impressed with these considerations, and anxious, while they acquitted themselves to the just claims of their constituents, to preserve friendship with other powers, the subject was brought before the Congress at its last session, when an act was passed, authorizing the Executive to accept possession of East Florida from the local authorities, or to take it against the attempt of a foreign power to occupy it, holding it in either case subject to future and friendly negotiation. This act therefore evinces the just and amicable views by which the United States have been governed towards Spain, in the measure authorized by it. Our mi-

nisters at London and Paris were immediately apprized of the act, and instructed to communicate the purport of it to both governments, and to explain at the same time, in the most friendly manner, the motives which led to it. The President could not doubt that such an explanation would give all the satisfaction that was intended by it. By a late letter from the American charge des affaires at London, I observe that this explanation was made to your government in the month of last. That it was not sooner made was owing to the departure of the minister plenipotentiary of the United States before the instruction was received.

I am persuaded, sir, that you will see, in this view of the subject, very strong proof of the just and amicable disposition of the United States towards Spain, of which I treated in the conference to which you have alluded. The same disposition still exists; but it must be understood that it cannot be indulged longer than may comport with the safety, as well as with the rights and honour of the nation.

I have the honour to be, &c.

JAS. MONROE.

Augustus J. Foster, Esq. &c.

CORRESPONDENCE BETWEEN MR. PINKNEY AND LORD WELLESLEY.

Mr. Pinkney to Mr. Smith. London, Jan. 17, 1811.

SIR,—I had the honour to receive on the 5th instant, while I was confined by a severe illness, your letter of the 15th of November, and as soon as I was able, prepared a note to lord Wellesley, in conformity with it.

On the 3d inst. I had received a letter from lord Wellesley, bearing date the 29th ultimo, on the subjects of the orders in council and the British blockades, to which I was anxious to reply at the same time that I obeyed the orders of the President signified in your letter above mentioned. I prepared an answer accordingly, and sent it in with the

other note and a note of the 15th, respecting two American schooners lately captured on their way to Bordeaux, for a breach of the orders in council. Copies of all these papers are enclosed.

My answer to lord Wellesley's letter was written under the pressure of indisposition, and the influence of more indignation than could well be suppressed. His letter proves, what scarcely required proof, that if the present government continues, we cannot be friends with England. I need not analyze it to you.

I am still so weak as to find it convenient to make this letter a short one, and will therefore only add that I have derived great satisfaction from your instructions of the fifteenth of November, and have determined to return to the United States in the Essex. She will go to L'Orient for Mr. Grayson, and then come to Cowes for me and my family. I calculate on sailing about the last of February.

The despatches by the Essex were delivered to me by lieutenant Rodgers on Sunday.

I have the honour, &c. &c.

WM. PINKNEY.

The Hon. R. Smith, &c.

Lord Wellesley to Mr. Pinkney. Foreign Office, Dec. 29, 1810.*

SIR,—In acknowledging the receipt of your letter of the 10th instant, I must express my regret that you should have thought it necessary to introduce into that letter any topics, which might tend to interrupt the conciliatory spirit, in which it is the sincere disposition of his majesty's government to conduct every negotiation with the government of the United States.

From an anxious desire to avoid all discussions of that tendency, I shall proceed without any further observation to communicate to you the view, which his majesty's government has taken of the principal question which formed the object of my inquiry, during our conference of the 5th inst. The letter of the French minister for foreign affairs to the American minister at Paris, of the 9th Aug.

* This letter was not received till January 3, 1811, at night.

1810, did not appear to his majesty's government, to contain such a notification of the repeal of the French decrees of Berlin and Milan, as could justify his majesty's government in repealing the British orders in council. That letter states "that the decrees of Berlin and Milan are revoked, and that from the first of November, 1810, they will cease to be in force, it being understood that in consequence of this declaration, the English shall revoke their orders in council, and renounce the new principles of blockade which they have attempted to establish." The purport of this declaration appeared to be that the repeal of the decrees of Berlin and Milan would take effect from the 1st of November, provided that Great Britain antecedently to that day, and in consequence of this declaration, should revoke the orders in council, and should renounce those principles of blockade, which the French government alleged to be new. A separate condition relating to America, seemed also to be contained in this declaration, by which America might understand, that the decrees of Berlin and Milan would be actually repealed on the 1st of November, 1810, provided that America should resent any refusal of the British government to renounce the new principles of blockade, and to revoke the orders in council.

By your explanation it appears, that the American government understands the letter of the French minister as announcing an absolute repeal, on the first of November, 1810, of the French decrees of Berlin and Milan; which repeal, however, is not to continue in force unless the British government, within a reasonable time after the first of November, 1810, shall fulfil the two conditions stated distinctly in the letter of the French minister. Under this explanation, if nothing more had been required from Great Britain, for the purpose of securing the continuance of the repeal of the French decrees, than the repeal of our orders in council, I should not have hesitated to declare the perfect readiness of this government to fulfil that condition. On these terms, the British government has always been sincerely disposed to repeal the orders in council. It appears, however, not only by the letter of the French minister, but by your explanation, that the repeal of the orders in council will not satisfy either the

French or the American government. The British government is further required, by the letter of the French minister, to renounce those principles of blockade which the French government alleges to be new. A reference to the terms of the Berlin decree will serve to explain the extent of this requisition. The Berlin decree states, that Great Britain "extends the right of blockade to commercial unfortified towns, and to ports, harbours, and mouths of rivers, which, according to the principles and practice of all civilized nations, is only applicable to fortified places." On the part of the American government, I understand you to require that Great Britain should revoke her order of blockade of May, 1806. Combining your requisition with that of the French minister, I must conclude, that America demands the revocation of that order of blockade as a practical instance of our renunciation of those principles of blockade which are condemned by the French government. Those principles of blockade Great Britain has asserted to be ancient and established by the laws of maritime war, acknowledged by all civilized nations, and on which depend the most valuable rights and interests of this nation. If the Berlin and Milan decrees are to be considered as still in force, unless Great Britain shall renounce these established foundations of her maritime rights and interests, the period of time is not yet arrived, when the repeal of her orders in council can be claimed from her, either with reference to the promise of this government, or to the safety and honour of the nation. I trust that the justice of the American government will not consider, that France, by the repeal of her obnoxious decrees under such a condition, has placed the question in that state which can warrant America in enforcing the non-intercourse act against Great Britain and not against France. In reviewing the actual state of this question, America cannot fail to observe the situation in which the commerce of neutral nations has been placed by many recent acts of the French government; nor can America reasonably expect that the system of violence and injustice, now pursued by France with unremitting activity (while it serves to illustrate the true spirit of her intentions,) should not require some precautions of defence on the part of Great Britain.

Having thus stated my view of the several considerations, arising from the letter of the French minister, and from that with which you have honoured me; it remains only to express my solicitude that you should correct any interpretation of either which you may deem erroneous. If either by the terms of the original decree to which the French minister's letter refers, or by any other authentick document, you can prove that the decrees of Berlin and Milan are absolutely repealed, and that no further condition is required of Great Britain than the repeal of her orders in council, I shall receive any such information with most sincere satisfaction; desiring you to understand, that the British government retains an anxious solicitude to revoke the *orders in council*, as soon as the Berlin and Milan decrees shall be effectually repealed without conditions injurious to the maritime rights and honour of the united kingdom.

I have the honour to be, with great respect and consideration, sir, your most obedient, and humble servant.

WELLESLEY.

William Pinkney, Esq. &c.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
Jan. 14, 1811.*

MY LORD,—I have received the letter which you did me the honour to address to me on the 29th of last month, and will not fail to transmit a copy of it to my government. In the mean time I take the liberty to trouble you with the following reply, which a severe indisposition has prevented me from preparing sooner.

The first paragraph seems to make it proper for me to begin by saying, that the topicks, introduced into my letter of the 10th of December, were intimately connected with its principal subject, and fairly used to illustrate and explain it; and consequently that if they had not the good fortune to be acceptable to your lordship, the fault was not mine.

It was scarcely possible to speak with more moderation than my paper exhibits, of that portion of a long list of invasions of the rights of the United States, which it necessarily reviewed, and of the apparent reluctance of the

British government to forbear those invasions in future. I do not know that I could more carefully have abstained from whatever might tend to disturb the spirit which your lordship ascribes to his majesty's government, if, instead of being utterly barren and unproductive, it had occasionally been visible in some practical result, in some concession either to friendship or to justice. It would not have been very surprising, nor very culpable perhaps, if I had wholly forgotten to address myself to a spirit of conciliation, which had met the most equitable claims with steady and unceasing repulsion ; which had yielded nothing that could be denied ; and had answered complaints of injury by multiplying their causes. With this forgetfulness, however, I am not chargeable ; for, against all the discouragements suggested by the past, I have acted still upon a presumption that the disposition to conciliate, so often professed, would finally be proved by some better evidence than a perseverance in oppressive novelties, as obviously incompatible with such a disposition in those who enforce them, as in those whose patience they continue to exercise.

Upon the commencement of the second paragraph, I must observe, that the forbearance which it announces might have afforded some gratification, if it had been followed by such admissions as my government is entitled to expect, instead of a further manifestation of that disregard of its demands, by which it has so long been wearied. It has never been my practice to seek discussions, of which the tendency is merely to irritate ; but I beg your lordship to be assured, that I feel no desire to avoid them, whatever may be their tendency, when the rights of my country require to be vindicated against pretensions that deny, and conduct that infringes them.

If I comprehend the other parts of your lordship's letter, they declare in effect, that the British government will repeal nothing but the *orders in council*, and that it cannot at present repeal even them, because in the first place, the French government has required, in the letter of the duke of Cadore to general Armstrong, of the 5th of August, not only that Great Britain shall revoke those orders, but that she shall renounce certain principles of blockade (supposed to be explained in the preamble to the Berlin decree) which France allèges to be new ; and,

in the second place, because the American government has (as you conclude) demanded the revocation of the British order of blockade of May, 1806, *as a practical instance of that same renunciation*, or, in other words, has made itself a party, not openly indeed, but indirectly and covertly, to the entire requisition of France, as you understand that requisition.

It is certainly true that the American government has required, as indispensable in the view of its acts of intercourse and non-intercourse, the annulment of the British blockade of May, 1806; and further, that it has through me declared its confident expectation that other blockades of a similar character (including that of the island of Zealand) will be discontinued. But by what process of reasoning your lordship has arrived at the conclusion, that the government of the United States intended by this requisition to become the champion of the edict of Berlin, to fashion its principles by those of France while it affected to adhere to its own, and to act upon some partnership in doctrines, which it would fain induce you to acknowledge, but could not prevail upon itself to avow, I am not able to conjecture. The frank and honourable character of the American government justifies me in saying that, if it had meant to demand of Great Britain an abjuration of all such principles as the French government may think fit to disapprove, it would not have put your lordship to the trouble of discovering that meaning by the aid of combinations and inferences discountenanced by the language of its minister, but would have told you so in explicit terms. What I have to request of your lordship, therefore, is that you will take our views and principles from our own mouths, and that neither the Berlin decree, nor any other act of any foreign state, may be made to speak for us what we have not spoken for ourselves.

The principles of blockade which the American government professes, and upon the foundation of which it has repeatedly protested against the order of May, 1806, and the other kindred innovations of those extraordinary times, have already been so clearly explained to your lordship, in my letter of the 21st of September, that it is hardly possible to read that letter and misunderstand them. Recommended by the plainest considerations of universal equity, you will find them supported with a strength of ar-

gument and a weight of authority, of which they scarcely stand in need, in the papers which will accompany this letter, or were transmitted in that of September. I will not recapitulate what I cannot improve; but I must avail myself of this opportunity to call your lordship's attention a second time, in a particular manner, to one of the papers to which my letter of September refers. I allude to the copy of an official note of the 12th of April, 1804, from Mr. Merry to Mr. Madison, respecting a pretended blockade of Martinique and Guadaloupe. No comment can add to the value of that manly and perspicuous exposition of the law of blockade, as made by England herself in maintenance of rules which have been respected and upheld in all seasons and on all occasions by the government of the United States. I will leave it, therefore, to your lordship's consideration, with only this remark, that, while that paper exists, it will be superfluous to seek in any *French* document for the opinions of the American government on the matter of it.

The steady fidelity of the government of the United States to its opinions on that interesting subject is known to every body. The same principles which are found in the letter of Mr. Madison to Mr. Thornton, of the 27th of October, 1803, already before you, were asserted in 1799, by the American minister at this court, in his correspondence with lord Grenville, respecting the blockade of some of the ports of Holland; were sanctioned in a letter of the 20th of September, 1800, from the Secretary of State of the United States to Mr. King, of which an extract is enclosed; were insisted upon in repeated instructions to Mr. Monroe and the special mission of 1806; have been maintained by the United States against *others* as well as against England, as will appear by the enclosed copy of instructions, dated the 21st of October, 1801, from Mr. Secretary Madison to Mr. Charles Pinckney, then American minister at Madrid; and finally, were adhered to by the United States, when belligerent, in the case of the blockade of Tripoli.

A few words will give a summary of those principles; and when recalled to your remembrance, I am not without hopes, that the strong grounds of law and right, on which they stand, will be as apparent to your lordship as they are to me.

It is by no means clear that it may not fairly be contended, on principle and early usage, that a maritime blockade is incomplete with regard to states at peace, unless the place which it would affect is invested by land as well as by sea. The United States, however, have called for the recognition of no such rule. They appear to have contented themselves with urging in substance, that ports not actually blockaded by a present, adequate, stationary force, employed by the power which attacks them, shall not be considered as shut to neutral trade in articles not contraband of war; that, though it is usual for a belligerent to give notice to neutral nations when he intends to institute a blockade, it is possible that he may not act upon his intention at all, or that he may execute it insufficiently, or that he may discontinue his blockade, of which it is not customary to give any notice; that consequently the presence of the blockading force, is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade at any given period, in like manner as the actual investment of a besieged place, is the evidence by which we decide whether the siege, which may be commenced, raised, recommenced and raised again, is continued or not; that of course a mere notification to a neutral minister shall not be relied upon, as affecting, with knowledge of the actual existence of a blockade, either his government or its citizens; that a vessel cleared or bound to a blockaded port, shall not be considered as violating in any manner the blockade, unless, on her approach towards such port, she shall have been previously warned not to enter it; that this view of the law, in itself perfectly correct, is peculiarly important to nations, situated at a great distance from the belligerent parties, and therefore incapable of obtaining other than tardy information of the actual state of their ports; that whole coasts and countries shall not be declared (for they can never be more than *declared*) to be in a state of blockade, and thus the right of blockade converted into the means of extinguishing the trade of neutral nations; and lastly, that every blockade shall be impartial in its operation, or, in other words, shall not open and shut for the convenience of the party that institutes it, and at the same time repel the commerce of the rest of the world; so as to become the odious instru-

ment of an unjust monopoly, instead of a measure of honourable war.

These principles are too moderate and just to furnish any motive to the British government for hesitating to revoke its orders in council, and those analogous orders of blockade, which the United States expect to be recalled. It can hardly be doubted that Great Britain will ultimately accede to them in their fullest extent; but if that be a sanguine calculation (as I trust it is not) it is still incontrovertible that a disinclination at this moment to acknowledge them, can suggest no rational inducement for declining to repeal at once what every principle disowns, and what must be repealed at last.

With regard to the rules of blockades which the French government expects you to abandon, I do not take upon me to decide whether they are such as your lordship supposes them to be or not. Your view of them may be correct; but it may also be erroneous; and it is wholly immaterial to the case between the United States and Great Britain whether it be the one or the other.

As to such *British blockades* as the United States desire you to relinquish, you will not, I am sure, allege that it is any reason for adhering to *them* that *France* expects you to relinquish *others*. If our demands are suited to the measure of our own rights, and of your obligations as they respect those rights, you cannot think of founding a rejection of them upon any imputed exorbitance in the theories of the French government, for which we are not responsible, and with which we have no concern. If, when you have done justice to the United States, your enemy should call upon you to go farther, what shall prevent you from refusing? Your free agency will in no respect have been impaired. Your case will be better, in truth and in the opinion of mankind; and you will be, *therefore*, stronger in maintaining it, provided that, in doing so, you resort only to legitimate means, and do not *once more* forget the rights of others, while you seek to vindicate your own.

Whether France will be satisfied with what you may do, is not to be known by anticipation, and ought not to be a subject of inquiry. So vague a speculation has nothing to do with your duties to nations at peace, and, if it had,

would annihilate them. It cannot serve your interests ; for it tends to lessen the number of your friends, without adding to your security against your enemies.

You are required, therefore, to do right, and to leave the consequences to the future, when by doing right you have every thing to gain and nothing to lose.

As to the *orders in council*, which professed to be a reluctant departure from all ordinary rules, and to be justified only as a system of retaliation for a pre-existing measure of France, their foundation (such as it was) is gone the moment that measure is no longer in operation. But the Berlin decree is repealed ; and even the *Milan* decree, the successor of your orders in council, is repealed also. Why is it, then, that your orders have outlived those edicts, and that they are still to oppress and harass as before ? Your lordship answers this question explicitly enough, but not satisfactorily. You do not allege that the French decrees are not repealed ; but you imagine that the repeal is not to remain in force, unless the British government shall, in addition to the revocation of its orders in council, abandon its system of blockade. I am not conscious of having stated, as your lordship seems to think, that this is so, and I believe in fact that it is otherwise. Even if it were admitted, however, the orders in council ought nevertheless to be revoked. Can "the safety and honour of the British nation" demand that these orders shall continue to outrage the publick law of the world, and sport with the undisputed rights of neutral commerce, after the pretext which was at first invented for them is gone ? But you are menaced with a *revival* of the French system, and consequently may again be furnished with the same *pretext* ! Be it so ; yet still, as the system and the pretext are *at present* at an end, so, of course, should be your orders.

According to your mode of reasoning, the situation of neutral trade is hopeless indeed. Whether the Berlin decree exists or not, it is equally to justify your orders in council. You issued them before it was any thing but a shadow, and by doing so gave to it all the substance it could ever claim. It is at this moment nothing. It is revoked and has passed away, according to your own admission. You choose, however, to look for its re-appearance ; and you make your own expectation equivalent to

the decree itself. Compelled to concede that there is no anti-neutral French edict in operation upon the ocean, you think it sufficient to say that there *will be* such an edict, you know not when; and in the mean time you do all you can to verify your own prediction, by giving to your enemy all the provocation in your power to resume the decrees which he has abandoned.

For my part, my lord, I know not what it is that the British government requires, with a view to what it calls its *safety* and its *honour*, as an inducement to rescind its orders in council. It does not, I presume, imagine that such a system will be suffered to ripen into law. It must intend to relinquish it, sooner or later, as one of those violent experiments for which time can do nothing, and to which submission will be hoped in vain. Yet, even after the professed foundation of this mischievous system is taken away, another and another is industriously procured for it; so that no man can tell at what time, or under what circumstances it is likely to have an end. When realities cannot be found, possibilities supply their place, and that, which was originally said to be retaliation for actual injury, becomes at last (if such a solecism can be endured or imagined) retaliation for *apprehended* injuries, which the future may or may not produce, but which it is certain have no existence *now*!

I do not mean to grant, for I do not think, that the edict of Berlin did at any time lend even a colour of equity to the British orders in council, with reference to the United States; but it might reasonably have been expected that they, who have so much relied upon it as a justification, would have suffered it and them to sink together. How this is forbidden by your *safety* or your *honour* remains to be explained; and I am not willing to believe that either the one or the other is inconsistent with the observance of substantial justice, and with the prosperity and rights of peaceful states.

Although your lordship has slightly remarked upon certain recent acts of the French government, and has spoken in general terms of "the system of violence and injustice now pursued by France," as requiring "some precautions of defence on the part of Great Britain," I do not perceive that you deduce any consequence from these observations, in favour of a perseverance in the orders in council.

I am not myself aware of any edicts of France which, now that the Berlin and Milan decrees are repealed, affect the rights of neutral commerce on the seas. And you will yourselves admit that if any of the acts of the French government, resting on territorial sovereignty, have injured, or shall hereafter injure, the United States, it is for them, and for them only, to seek redress. In like manner it is for Great Britain to determine what precautions of defence those measures of France, which you denominate unjust and violent, may render it expedient for her to adopt. The United States have only to insist that a sacrifice of their rights shall not be among the number of those precautions.

In replying to that passage in your letter, which adverts to the American act of non-intercourse, it is only necessary to mention the proclamation of the President of the United States, of the 2d of November last, and the act of Congress which my letter of the 21st of September communicated, and to add that it is in the power of the British government to prevent the non-intercourse from being enforced against Great Britain.

Upon the concluding paragraph of your letter I will barely observe, that I am not in possession of any document, which you are likely to consider as *authentick*, showing that the French decrees are "absolutely revoked upon the single condition of the revocation of the British orders in council;" but that the information, which I have lately received from the American legation at Paris, confirms what I have already stated, and I think proved to your lordship, that those decrees are repealed and have ceased to have any effect. I will now trespass on you no farther than to suggest that it would have given me sincere pleasure to be enabled to say as much of the British orders in council and of the blockades, from which it is impossible to distinguish them.

I have the honour to be, with great respect, &c. &c.

WM. PINKNEY.

The Most Noble the Marquis Wellesley.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
Jan. 14, 1811.*

MY LORD,—After a lapse of many months since I had the honour to receive and convey to my government your lordship's repeated assurances, written as well as verbal, (which you declined, however, to put into an official form) "that it was your intention *immediately* to recommend the appointment of a minister plenipotentiary from the king to the United States," the British government continues to be represented at Washington by a *charge d'affaires*; and no steps whatever appear to have been taken to fulfil the expectation which the above mentioned assurances produced and justified.

In this state of things it has become my duty to inform your lordship, in compliance with my instructions, that the government of the United States cannot continue to be represented here by a minister plenipotentiary.

As soon, therefore, as the situation of the king's government will permit, I shall wish to take my leave, and return to America in the United States frigate *Essex*, now at Plymouth, having first named, as I am specially authorized to do, a fit person to take charge of the affairs of the American legation in this country.

I have the honour to be, &c.

WM. PINKNEY.

The Most Noble the Marquis Wellesley, &c.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
Jan. 15, 1811.*

MY LORD,—I have the honour to inform you that it has been represented to me, that two American vessels (the schooner *Polly* and the schooner *Mary*) laden with cod fish, and bound from Marblehead to Bordeaux, in France, have, since the 1st instant, been captured and brought into Plymouth as prize, for an imputed breach of the British orders in council.

It is my duty to demand the restoration of these vessels and their cargoes to the American owners, together with

compensation for their unjust detention, and liberty to resume the voyages which that detention has interrupted.

I have the honour to be, &c.

WM. PINKNEY.

The Most Noble the Marquis Wellesley, &c.

Extract of a Letter from Mr. Pinkney to the Secretary of State of the United States. London, Feb. 12, 1811.

"I RECEIVED a few hours since, a letter from lord Wellesley (of which a copy is enclosed) in answer to mine of the 14th ultimo, respecting the British orders in council and blockades."

Lord Wellesley to Mr. Pinkney. Foreign Office, February 11, 1811.

SIR,—The letter which I had the honour to receive from you, under date the 14th of January, 1811, has been submitted to his royal highness the prince regent.

In communicating to you the orders which I have received from his royal highness on the subject of your letter, I am commanded to abstain from any course of argument, and from any expression, which (however justified by the general tenour of your observations) might tend to interrupt the good understanding, which it is the wish of his royal highness, on behalf of his majesty, to maintain with the government of the United States.

No statement contained in your letter appears to affect the general principles, which I had the honour to communicate to you in my letter of the 29th of December, 1810.

Great Britain has always insisted upon her right of self-defence against the system of commercial warfare pursued by France, and the British orders of council were founded upon a just principle of retaliation against the French decrees. The incidental operation of the orders of council upon the commerce of the United States, (although deeply to be lamented) must be ascribed exclusively to the violence and injustice of the enemy, which compelled this country to resort to adequate means of defence. It cannot now be admitted that the foundation of the original question should be changed, and that the

measure of retaliation adopted against France should now be relinquished, at the desire of the United States, without any reference to the actual conduct of the enemy.

The intention has been repeatedly declared of repealing the orders of council, whenever France shall actually have revoked the decrees of Berlin and Milan, and shall have restored the trade of neutral nations to the condition in which it stood previously to the promulgation of those decrees. Even admitting that France has suspended the operation of those decrees, or has repealed them, with reference to the United States, it is evident that she has not relinquished the conditions expressly declared in the letter of the French minister, under date the 5th of August, 1810. France, therefore, requires that Great Britain shall not only repeal the orders of council, but renounce those principles of blockade which are alleged in the same letter to be new; an allegation which must be understood to refer to the introductory part of the Berlin decree. If Great Britain shall not submit to these terms, it is plainly intimated in the same letter that France requires America to enforce them.

To these conditions, his royal highness, on behalf of his majesty, cannot accede. No principles of blockade have been promulgated or acted upon by Great Britain previously to the Berlin decree, which are not strictly conformable to the rights of civilized war, and to the approved usages and law of nations. The blockades established by the orders of council rest on separate grounds, and are justified by the principles of necessary retaliation in which they originated.

The conditions exacted by France, would require Great Britain to surrender to the enemy the most important maritime rights and interests of the united kingdoms.

I am commanded to inform you that his royal highness cannot consent to blend the question which has arisen upon the orders of council, with any discussion of the general principles of blockade.

This declaration does not preclude any amicable discussion upon the subject of any particular blockade, of which the circumstances may appear to the government of the United States to be exceptionable, or to require explanation.

I have the honour to be, &c. &c.

WELLESLEY.

To William Pinkney, Esq. &c. &c. &c.

Mr. Pinkney to Lord Wellesley. London, February 13, 1811.

MY LORD,—I have had the honour to receive your letter of the 11th instant, and will transmit a copy of it to my government. I can have no inducement to trouble your lordship any farther upon the subject to which it relates.

I have the honour, &c. &c.

WM. PINKNEY.

The Most Noble, the Marquis Wellesley.

Lord Wellesley to Mr. Pinkney.

THE marquis Wellesley has the honour to inform Mr. Pinkney, that his royal highness, the prince regent, will receive the foreign ministers at his levee at Carlton house, on Tuesday next, the 19th inst. at two o'clock.

Foreign Office, Feb. 12, 1811.

Mr. Pinkney to Lord Wellesley. Great Cumberland Place, Feb. 13, 1811.

MY LORD,—Referring to my letter of the 14th of last month, I beg to be informed by your lordship, at what time his royal highness the prince regent will do me the honour to give me audience of leave.

I have the honour to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, Feb. 16, 1811.

SIR,—I received at a very late hour last night two notes (bearing date "Feb. 15, 1811") of which copies, marked No. 1, and No. 2, are enclosed.

Taken together (as of course they must be) they announce the appointment of Mr. Foster as envoy extraordinary and minister plenipotentiary to the United States, and set forth the reasons why an appointment has been so long delayed.

You will perceive, in the second and third paragraphs of the unofficial paper, a distinct disavowal of the offensive views which the appointment of a mere *charge d'affaires* and other circumstances appeared originally to indicate. We are now told, in writing, that the delay in appointing a minister plenipotentiary was occasioned, *in the first instance*, not by such considerations as have been supposed, but "by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two governments;" that more recently "the state of his majesty's government rendered it impossible to make the intended appointment;" and that lord Wellesley was therefore "concerned to find, by my letter of the 14th of January, that the government of the United States should be induced to suppose that any indisposition could exist, on the part of his majesty's government, to place the British mission in America on the footing most acceptable to the United States, as soon as might be practicable, consistently with the convenience of affairs in this country."

The two papers are evidently calculated to prevent me from acting upon my late request of an audience of leave; and they certainly put it in my power, if they do not make it my duty, to forbear to act upon it. I have it under consideration, (looking to the instructions contained in your letter of the 15th of November,) what course I ought to pursue. It is at any rate my intention to return to America in the *Essex*, as I shall doubtless have the President's permission in due season to do, in consequence of my letter to you of the 24th of November.

I have the honour to be, &c.

WM. PINKNEY.

Robert Smith, Esq. &c.

No. 1.

[Marked "private."]

Lord Wellesley to Mr. Pinkney. Foreign Office, February 15, 1811.

SIR,—In the various unofficial communications which I have had the honour to make to you, respecting the appointment of a minister plenipotentiary from the king to

the United States, I have endeavoured to explain to you, in the most distinct manner, the circumstances which had delayed that appointment; and I have expressed my intention to recommend that it should be carried into effect as soon as the situation of his majesty's government might permit.

The delay was occasioned, in the first instance (as I stated to you repeatedly) by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two governments. Since that period of time the state of his majesty's government rendered it impossible to make the intended appointment.

I was therefore concerned to find, by your letter of the 14th of January, that the government of the United States should be induced to suppose that any indisposition could exist, on the part of his majesty's government, to place the British mission in America on the footing most acceptable to the United States, as soon as might be practicable, consistently with the convenience of affairs in this country.

In pursuance of the intention, so often declared to you, his royal highness the prince regent has been pleased, in the name and on behalf of his majesty, to appoint Mr. Foster, (lately charged with his majesty's affairs in Sweden) to be his majesty's envoy extraordinary and minister plenipotentiary to the United States; and that appointment will be notified in the next gazette.

You will, of course, exercise your own judgment, under these circumstances, respecting the propriety of requiring an audience of leave, on the grounds which you have stated.

I have the honour to be, &c.

WELLESLEY.

No. 2.

Lord Wellesley to Mr. Pinkney. Foreign Office, February 15, 1811.

SIR,—Having submitted to his royal highness the prince regent your desire to have an audience of leave, with a view to your return to America, I am commanded by his royal

highness to inform you that he will be prepared to receive you, at Carlton house, on Tuesday the 19th instant.

At the same time, I am commanded to inform you, that his royal highness, in the name and on the behalf of his majesty, has been pleased to appoint Augustus Foster, esquire, (lately charged with his majesty's affairs in Sweden) to be his majesty's envoy extraordinary and minister plenipotentiary to the United States.

I have the honour to be, &c.

WELLESLEY.

*Mr. Pinkney to Mr. Smith, Secretary of State. London;
February 18, 1811.*

SIR,—The result of my reflections on lord Wellesley's two communications of the 15th instant, will be found in my letter to him of yesterday's date, of which I now transmit a copy.

It appeared to me that the appointment of a minister plenipotentiary to the United States was nothing, or rather worse than nothing, if the orders in council were to remain in force; the blockade of May, 1806, to be unrepealed; the affair of the Chesapeake to continue at large, and the other urgent questions between us to remain unsettled.

The "posture of our relations," as you have expressed it in your letter of the 15th of November, would not be "satisfactorily changed" merely by such an appointment; and of course my functions could not be resumed upon the sole foundation of it.

I have put it to lord Wellesley to say explicitly, whether full and satisfactory arrangement is intended, before I answer his official letter concerning my audience of leave.

If he is prepared to do at once what we require, or to instruct the new minister to do at Washington what does not demand immediate interference here, I shall think it my duty to forbear to take my leave on the 26th. If he declines a frank reply, or refuses our demands, I shall press for my audience and put an end to my mission.

I have the honour to be, &c.

WM. PINKNEY.

The Secretary of State of the U. States.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
February 17, 1811.*

MY LORD,—Before I reply to your official communication of the 15th instant, you will perhaps allow me, in acknowledging the receipt of the unofficial paper which accompanied it, to trouble you with a few words.

From the appointment which you have done me the honour to announce to me, of a minister plenipotentiary to the United States, as well as from the language of your private letter, I conclude that it is the intention of the British government to seek immediately those adjustments with America, without which, that appointment can produce no beneficial effect. I presume, that, for the restoration of harmony between the two countries, the orders in council will be relinquished without delay; that the blockade of May 1806 will be annulled; that the case of the Chesapeake will be arranged in the manner heretofore intended, and, in general, that all such just and reasonable acts will be done as are necessary to make us friends.

My motives will not, I am sure, be misinterpreted, if, anxious to be enabled so to regulate my conduct in the execution of my instructions as that the best results may be accomplished, I take the liberty to request such explanations on these heads as your lordship may think fit to give me.

I ought to add, that, as the levee of his royal highness the prince regent has been postponed until Tuesday the 26th instant, I have supposed that my audience of leave is postponed to the same day; and that I have, on that ground, undertaken to delay my reply to your official communication until I receive an answer to this letter.

I have the honour to be, &c. &c.

WM. PINKNEY.

The Most Noble the Marquis Wellesley.

Mr. Pinkney to Mr. Smith. London, Feb. 24, 1811.

SIR,—I received last night lord Wellesley's answer (of which a copy is enclosed) to my letter of the 17th instant. He has marked it *private*, and speaks of my letter to him as being private also. My letter, however,

was not so marked or intended ; and his answer, however marked, is essentially an official communication of great importance.

His letter amounts to an explicit declaration that the orders in council are to be persisted in ; and it furnishes no evidence of a disposition to give us any thing but vague and general professions on any subject. I did not, therefore, hesitate to send him a reply, declaring my intention to take leave on Thursday the 28th, in pursuance of my request of the 13th, and declining to attend the prince's levee on Tuesday the 26th. Of this reply a copy is now transmitted.

To mistake the views of this government is now impossible. They are such as I always believed them to be, and will, I hope, be resisted with spirit and firmness.

In shaping my course on this occasion, I have endeavoured to conform to the orders of the President, signified to me in your letter of the 15th of November. With those orders, as I understand them, my own wishes certainly concurred ; but I trust that I have not suffered inclination to influence my interpretation of them.

According to your letter, my functions were to be considered as suspended on the receipt of it, if the British government had not *then* appointed a minister plenipotentiary to the United States. Such an appointment had not at that time been made, and consequently the suspension took place. Upon a careful consideration of your letter, it appeared to me to look to a REVIVAL of my functions, in the event of "a satisfactory change in the posture of our relations" with this country. I could not indeed find in it any precise provision to that effect ; but there was apparently room for such a construction ; and I have already informed you, that, however anxious to close my mission and retire from the publick service, I was disposed to act, for a few weeks, upon that implication, in case such a change occurred in our relations as I deemed a *satisfactory* one. It could not be imagined that the appointment of Mr. Foster produced that change ; and, supposing it to be left, in some degree at least to my discretion to determine in what it should consist, I had no difficulty in deciding that the immediate repeal of the orders in council and the blockade of May 1806, a distinct pledge on the affair of the Chesapeake, and a manifestation of a disposition

to accommodate with us, upon principles of justice, on all other concerns, were indispensable ingredients. It followed, that, upon receiving lord Wellesley's letter of yesterday's date, I had no choice but to press for my audience of leave.

It may perhaps be thought that I ought not to have refused to appear at Carlton house on the 26th, for the purpose of being presented, with the other foreign ministers, to the regent. I have not, myself, any doubt at all upon that point. My appearance at the levee for such a purpose would import that I consider my capacity as the minister of the United States to be entire, and would, moreover, encourage the delusion which now prevails concerning the views of the British government towards America.

I have the honour to be, &c. &c.

WM. PINKNEY.

Robert Smith, Esq. &c. &c.

[Marked private.]

Lord Wellesley to Mr. Pinkney. Apsley House, February 23 1811.

SIR,—I have the honour to acknowledge the receipt of your private* letter, under date the 17th instant.

I take the liberty of referring you to my former unofficial letters and communications for an explanation of the motives which have induced this government, in pursuance of those amicable views which I have uniformly declared, to appoint a minister plenipotentiary to the United States.

I have already assured you that the delay of that appointment was occasioned, in the first instance, by an anxious desire to make it in the manner which was likely to prove most acceptable to the United States. The appointment was recently delayed by the state of his majesty's government; and it has ultimately taken place in pursuance of the principles which I have repeatedly stated to you, and not in consequence of any change of system. It is perhaps unnecessary to repeat the desire of this go-

* N B. This is a mistake, Mr. Pinkney's letter was not marked private, nor intended to be so.

WM. PINKNEY.

vernment to relinquish the orders in council, whenever that measure can be adopted without involving the necessity of surrendering the most important and valuable maritime rights and interests of the united kingdom. No objection has ever been stated, on the part of this government, to an amicable discussion of the principles of any blockade, which may be deemed exceptionable by the United States. I have expressed to you, without reserve, a desire to arrange the case of the Chesapeake on just and equitable principles; and I trust that no apprehension can be entertained of the general disposition of this government to adopt every reasonable measure, which may be necessary to conciliate the friendship of the United States. But it would be neither candid towards you, nor just towards this government, to countenance any interpretation of the motives of the late appointment, which might favour a supposition that it was intended by this government to relinquish any of the principles which I have so often endeavoured to explain to you.

His royal highness's levee will take place on Tuesday the 26th instant; but I have received his commands to signify to such of the foreign ministers as may desire to have private audiences, that his royal highness will receive them on Thursday the 28th inst. The foreign ministers, however, will all be presented to his royal highness on Tuesday the 26th instant, on which day I shall attend for that purpose.

I have the honour to be, &c.

WELLESLEY.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
Feb. 23, 1811.*

MY LORD,—I have had the honour to receive your private letter of this day's date.

It only remains for me to inform your lordship that I have transmitted to the Secretary of State of the United States, a copy of your official communication of the 15th instant, and of the unofficial paper which accompanied it; and that I will avail myself of the disposition of his royal highness the prince regent, to give me an audience of leave on Thursday next the 28th of February, in pursuance of

the request contained in my letter of the 13th inst. which referred to my letter of the 14th of January.

I take the liberty to add that, until the time appointed for my audience, I will not trespass on his royal highness, for the purpose of being presented to him.

I have the honour to be, &c.

WM. PINKNEY.

The Most Noble the Marquis Wellesley.

Extract of a Letter from Mr. Pinkney to Mr. Smith, Secretary of State. London, March 1, 1811.

"I HAD my audience of leave at Carlton house yesterday.

"In the course of the short address which the occasion required, I stated to the prince regent the grounds upon which it had become my duty to take my leave, and to commit the business of the legation to a charge d'affaires; and I concluded by expressing my regret that my humble efforts, in the execution of the instructions of my government, to set to rights the embarrassed and disjointed relations of the two countries, had wholly failed, and that I saw no reason to expect that the great work of their reconciliation was likely to be accomplished through any other agency.

The prince's reply was of course general; but I ought to say that (exclusively of phrases of courtesy) it contained explicit declarations of the most amicable views and feelings towards the United States. Lord Wellesley was the only person present at this audience.

While I was in the outer room, waiting until the prince regent was ready to receive me, lord Wellesley told me that they intended to send out Mr. Foster immediately."

Extract of a Letter from Mr. Pinkney to the Secretary of State of the United States. Cowes, May 7, 1811.

"I ENCLOSE duplicate copies (more legible than those transmitted in my letter of the 13th of March) of Mr. Russell's communications to me of the 1st, 11th, 13th, and 30th of December last. They are necessary to account for, not the general character or substance of my late cor-

respondence with lord Wellesley, but that particular part of the last paragraph of my letter to that nobleman, of the 14th of January, 1811, which is contained in the following words: "The information which I have lately received from the American legation at Paris, confirms what I have already stated, and I think proved to your lordship, that those decrees are repealed, and have ceased to have any effect."

I have the honour, &c.

WM. PINKNEY.

The Hon. R. Smith, &c.

Mr. Russell to Mr. Pinkney. Paris, December 1, 1810.

SIR,—As nothing has transpired here of sufficient importance to be communicated by a special messenger; and as no safe private conveyance has hitherto presented itself till now, to acknowledge the receipt of your letters under dates of the 7th and 28th of October; no event within my knowledge has occurred, either before or since the 1st of Nov. to vary the construction given by us to the very positive and precise assurances of the duke of Cadore on the 5th of August, relative to the revocation of the Berlin and Milan decrees. That these decrees have not been executed for an entire month on any vessel, arriving during that time, in any of the ports of France, may, when connected with the terms in which their revocation was announced, fortify the presumption that they have ceased to operate. I know of no better evidence than this, which the negative character of the case admits; or how the non-existence of an edict can be proved, except by the promulgation of its repeal, and its subsequent non-execution.

Our attention here is now turned towards England and the United States. The performance of one of the conditions on which the revocation of the decrees was predicated, and which is essential to render it permanent, is anxiously expected. And it is devoutly to be wished that England, by evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measure which exclusively depends on them.

I need not suggest to you the importance of transmitting hither, as early as possible, any information of a decided character, which you may possess, relative to this subject; as an impatience is already betrayed here to learn that one or the other of the conditions has been performed.

I am, sir, &c.

JONA. RUSSELL.

His Excellency Wm. Pinkney, &c.

Mr. Russell to Mr. Pinkney. Paris, December 11, 1810.

SIR,—I have had the pleasure to receive your letter of the 22d ult. by Mr. Page, and I thank you most sincerely for the papers which accompanied it. It is no where more necessary than at Paris, to hear both sides of a question in order to give a near guess at the truth. The way in which the story is told on your side of the channel, will enable me to correct many errors which it contains as told here. The obligations you confer on me this way I shall endeavour to discharge in kind.

I wrote you a few days since by the way of Dieppe, and gave you the best statement of affairs here that the truth would warrant, in hopes that you might derive some advantage from it. I assure you I have felt disappointed, and grieved, at the conduct of the British ministry. If they distrusted the sincerity of their enemies, with regard to the revocation of the decrees here, still it would have been good policy to have appeared to believe them, and to have acted accordingly. But pursuing a different course, they have missed a golden opportunity of honourably repealing their offending orders, and, in so doing, to have proved at once their own sincerity, and conciliated the good opinion of the United States. If the Essex frigate, which arrived on the 4th instant at L'Orient, in twenty-eight days from Norfolk, has brought the President's proclamation in pursuance of the law of the first of May, the British ministry will be placed in an awkward situation. They will have to persevere in their orders, at the expense of their veracity and at the hazard of war with the United States, or to withdraw them under very equivocal circumstances, which will give to their conduct the appearance of being rather the result of necessity than

the dictate of principle. That the frigate has brought this proclamation there is good cause to suppose, from the time when she left the United States, being a few days subsequent to the period when the Berlin and Milan decrees were to cease to operate. If she has brought this proclamation, it will, without doubt, render absolute the revocation of those decrees, whatever uncertainty might have before attended it. There are probably, then, but a few days left in which the repeal of the British orders can appear to be the spontaneous act of the ministry; and I sincerely hope, that by properly improving this short period, they may do, with a good grace, what cannot be done afterwards in a way either to save their pride or deserve our friendship.

Agreeably to your request, I shall change the file of the *Journal de l'empire*, which I intended for you, for that of the *Moniteur*.

I am, sir, &c.

JONA. RUSSELL.

His Excellency William Pinkney, &c.

Mr. Russell to Mr. Pinkney. Paris, December 27, 1810.

SIR,—I have received your letters of the 5th and 6th of this month, by Mr. Bowdoin and Mr. Wells.

The vessel you mention, the *Charles*, having on board a large quantity of turpentine, which is considered here as naval stores, will probably be condemned for carrying contraband of war to an enemy, without any reference to the Berlin and Milan decrees.

On the other hand, the American vessels which have been permitted to land their outward cargoes in the ports of France, and take in return cargoes to the United States, are, as far as I can learn, but two in number, and in fact arrived before the first of November, and to them the decrees were not applicable. The other vessels which have taken away cargoes arrived here in ballast, and were recommended by special circumstances to the consideration of this government.

Nothing can therefore be inferred either for or against the revocation of the French edicts, from the facts referred to in your letter of the 6th instant.

Since I last wrote, however, I have learnt the seizure and capture of two or three American vessels, but the course which this government will pursue in relation to them, being marked out by the letters of the minister of justice to the president of the council of prizes, and from the minister of finance to the director general of the customs, which you will find in the *Moniteurs* which I herewith send to you, it is unnecessary to enter into a particular detail of the circumstances which attended these cases.

I am willing to believe that what this government has done, although it may not be entirely satisfactory to the United States, will at least be sufficient to procure from the British government a repeal of the orders in council, and the restoration of all American property taken under them since the first of November.

It is possible that the French cruisers may hereafter continue their depredations, but abuses of this kind are very distinct from the operation of the Berlin and Milan decrees, and cannot, by the most extravagant construction of the law of retortion, afford a pretext for the continuance of the British orders.

I am, sir, &c. &c.

JONA. RUSSELL.

His Excellency William Pinkney, &c.

Mr. Russell to Mr. Pinkney. Paris, Dec. 30, 1810.

SIR,—A gentleman called on me last evening from the duke of Cadore, to inform me that the American schooner, the *Grace Ann Greene*, had been released.

This vessel arrived at Marseilles since the first of November, and was last from Gibraltar, where she had remained some time. As she came clearly within the Berlin and Milan decrees, her release may be considered as conclusive evidence of their revocation.

I am, sir, &c.

JONA. RUSSELL.

His Excellency Wm. Pinkney, &c.

CORRESPONDENCE OF MR. JOHN SPEAR SMITH.

Extract of a Letter from J. S. Smith, Esq. to the Secretary of State. London, May 25, 1811.

"I HAD yesterday for the first time, an interview with lord Wellesley, and presented to him the letters of introduction that Mr. Pinkney had given me, and he received me in the most polite manner."

Mr. J. S. Smith to Marquis Wellesley. London, May 27, 1811.

MY LORD,—I have the honour to inform your lordship (from official information, this day received by me from Paris,) that all the American vessels which have voluntarily arrived in France, since the first of November, have been admitted. This (if any additional evidence of the repeal of the Berlin and Milan decrees were wanting,) will sufficiently establish the fact of their revocation, as most of the vessels now admitted, would otherwise have been subject to their operation.

I have the honour to be, &c.

J. S. SMITH.

The Most Noble the Marquis Wellesley, &c.

Extract of a Letter from Mr. John S. Smith to the Secretary of State. London, June 8, 1811.

"ENCLOSED is the copy of a letter which I addressed to lord Wellesley on the 5th instant. I had delayed making this communication in the hope that I should do it at the interview which he had promised me, and which I again requested on the 3d instant. I did not consider it necessary to enter at length into a subject which has been so often and so ably discussed, and on which nothing has been left to add. I shall, however, enter into any explanations that may be necessary when I again see his lordship."

Mr. J. S. Smith to Lord Wellesley. Bentinck Street, June 5, 1811.

MY LORD,—I have the honour to communicate to your lordship the copy of an act passed during the last session of Congress, which, though it renews certain parts of the non-intercourse law against this country, yet it carefully gives to the President the authority to repeal it “when Great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States.” In this, as well as in the other provisions of the act, his majesty’s government cannot fail to observe the invariable disposition of the United States to preserve harmony with Great Britain, and to re-establish that happy intercourse between the two nations, which it is so much the interest of both to cultivate; and the President confidently expects that his majesty will not hesitate to abandon a system, always urged to be merely retaliatory, now that its causes have ceased to exist.

I have the honour to inform your lordship that the gentleman who will be the bearer of my despatches to the United States, in the John Adams, will leave town on Friday evening, and that I shall be happy to forward by the same occasion any despatches that your lordship may wish to send to the United States.

I have the honour to be, &c.

J. S. SMITH.

The Most Noble the Marquis Wellesley.

Mr. Smith, Charge d’Affaires at London to the Secretary of State of the United States. London, June 6, 1811.

SIR,—I have the honour to enclose a report of the trial of the Fox and others.

The John Adams will leave Cowes this week; the messenger goes down to-morrow evening.

I have the honour to be, &c.

J. S. SMITH.

The Honourable the Secretary of State, &c.

COURT OF ADMIRALTY, THURSDAY, MAY 30, 1811.

FOX AND OTHERS.

JUDGMENT.

SIR WILLIAM SCOTT.—This was the case of an American vessel which was taken on the 15th of November, 1810, on a voyage from Boston to Cherbourg. It is contended on the part of the captors, that, under the order in council of the 26th April, 1809, this ship and cargo, being destined to a port of France, are liable to confiscation. On the part of the claimants it has been replied, that the ship and cargo are not confiscable under the orders in council; first, because these orders have in fact become extinct, being professedly founded upon measures which the enemy had retracted; and secondly, that if the orders in council are to be considered as existing, there are circumstances of equity in the present case, and in the others that follow, which ought to induce the court to hold them exonerated from the penal effect of these orders.

In the course of the discussion a question has been started, what would be the duty of the court under orders in council that were repugnant to the law of nations? It has been contended on one side, that the court would at all events be bound to enforce the orders in council: on the other, that the court would be bound to apply the rule of the law of nations applying to the particular case, in disregard of the orders in council. I have not observed, however, that these orders in council, in their retaliatory character, have been described in the argument as at all repugnant to the law of nations, however liable to be so described if merely original and abstract; and therefore it is rather to correct possible misapprehension on the subject than from the sense of any obligation which the present discussion imposes upon me, that I observe that this court is bound to administer the law of nations to the subjects of other countries in the different relations in which they may be placed towards this country and its government. This is what other countries have a right to demand for their subjects, and to complain if they receive it not. This is its unwritten law evidenced in the course of its decisions, and collected from the common usage of civilized states. At

the same time it is strictly true, that by the constitution of this country, the king in council possesses legislative rights over this court, and has power to issue orders and instructions which it is bound to obey and enforce; and these constitute the written law of this court. These two propositions, that the court is bound to administer the law of nations, and that it is bound to enforce the king's orders in council, are not at all inconsistent with each other; because these orders and instructions are presumed to conform themselves, under the given circumstances, to the principles of its unwritten law. They are either directory applications of those principles to the cases indicated in them—cases which, with all the facts and circumstances belonging to them, and which constitute their legal character, could be but imperfectly known to the court itself; or they are positive regulations, consistent with those principles, applying to matters which require more exact and definite rules than those general principles are capable of furnishing.

The constitution of this court, relatively to the legislative power of the king in council, is analogous to that of the courts of common law relatively to that of the parliament of this kingdom. Those courts have their unwritten law, the approved principles of natural reason and justice—they have likewise the written or statute law in acts of parliament, which are directory applications of the same principles to particular subjects, or positive regulations consistent with them, upon matters which would remain too much at large if they were left to the imperfect information which the courts could extract from mere general speculations. What would be the duty of the individuals who preside in those courts if required to enforce an act of parliament which contradicted those principles, is a question which I presume they would not entertain *a priori*, because they will not entertain *a priori* the supposition that any such will arise. In like manner this court will not let itself loose into speculations as to what would be its duty under such an emergency, because it cannot, without extreme indecency, presume that any such emergency will happen; and it is the less disposed to entertain them, because its own observation and experience attest the general conformity of such orders and instructions to its principles of unwritten law.—In the particular

case of the orders and instructions which give rise to the present question, the court has not heard it at all maintained in argument, that as retaliatory orders they are not conformable to such principles—for retaliatory orders they are.—They are so declared in their own language, and in the uniform language of the government which has established them. I have no hesitation in saying, that they would cease to be just if they ceased to be retaliatory; and they would cease to be retaliatory, from the moment the enemy retracts in a sincere manner those measures of his which they were intended to retaliate.

The first question is, what is the proper evidence for this court to receive, under all the circumstances that belong to the case, in proof of the fact that he has made a *bona fide* retraction of those measures. Upon that point it appears to me that the proper evidence for the court to receive, is the declaration of the state itself, which issued these retaliatory orders, that it revokes them in consequence of such a change having taken place in the conduct of the enemy. When the state, in consequence of gross outrages upon the law of nations committed by its adversary, was compelled, by a necessity which it laments, to resort to measures which it otherwise condemns, it pledged itself to the revocation of those measures as soon as the necessity ceases. And till the state revokes them, this court is bound to presume that the necessity continues to exist; it cannot, without extreme indecency, suppose that they would continue a moment longer than the necessity which produced them, or that the notification that such measures were revoked, would be less publick and formal than their first establishment. Their establishment was doubtless a great and signal departure from the ordinary administration of justice in the ordinary state of the exercise of publick hostility, but was justified by that extraordinary deviation from the common exercise of hostility in the conduct of the enemy. It would not have been within the competency of the court itself to have applied originally such rules, because it was hardly possible for this court to possess that distinct and certain information of the facts to which alone such extraordinary rules were justly applicable. It waited therefore for the communication of the facts: It waited likewise for the promulgation of the rules that were to be practically applied. For the

State might not have thought fit to act up to the extremity of its rights on this extraordinary occasion: It might, from motives of forbearance, or even of policy unmixed with any injustice to other states, have adopted a more indulgent rule than the law of nations would authorize, though it is not at liberty ever to apply a harsher rule than that law warrants. In the case of the Swedish convoy, which has been alluded to, no order or instruction whatever was issued, and the court therefore was left to find its way to that legal conclusion which its judgment of the principles of the law led it to adopt. But certainly, if the state had issued an order that a rule of less severity should be applied, this court would not have considered it as any departure from its duty to act upon the milder rule, which the prudence of the state was content to substitute in support of its own rights. In the present case, it waited for the communication of the fact and the promulgation of the rule. It is its duty in like manner to wait for the notification of the fact that these orders are revoked in consequence of a change in the conduct of the enemy.

The edicts of the enemy themselves, obscure and ambiguous in their usual language, and most notoriously and frequently contradicted by his practice, would hardly afford it a satisfactory evidence of any such change having actually and sincerely taken place. This state has pledged itself to make such a notification when the fact happens: It is pledged so to do by its publick declarations—by its acknowledged interpretations of law of nations—by every act which can excite an universal expectation and demand, that it shall redeem such a pledge. Is such an expectation peculiar to this court? most unquestionably not. It is universally felt and universally expressed. What are the expectations signified by the American government, in the publick correspondence referred to? not that these orders would become silently extinct under the interpretations of this court, but that the state would rescind and revoke them. What is the expectation expressed in the numerous private letters exhibited to the court amongst the papers found on board this class of vessels? not that the British orders had expired of themselves, but that they would be removed and repealed by publick authority. If I took upon myself to annihilate them by interpretation.

I should act in opposition to the apprehension and judgment of all parties concerned—of the individuals whose property is in question, and of the American government itself, which is bound to protect them.

Allusion has been made to two or three cases, in which this court is said to have exercised a power of qualifying and moderating the general terms of an order in council, as in the case of the *Lucy*, *Taylor*, in which the general terms of the order subjected to confiscation all ships transferred by the enemy to neutrals during the war, and yet this court held that these general terms did not extend to prize ships so transferred by the enemy. But what was the ground of that interpretation? It was this: The rule itself was adopted from the rule of the enemy, and upon a principle of exact retaliation; for it was declared in the express terms of the preamble of the order, that it was *just to apply the same rule to the enemy which he was in the habit of applying to this country*. And when the court found, upon satisfactory evidence, that the enemy did not apply any such rule to prize ships, but specially exempted them, it would have pronounced in direct contradiction to the avowed principle of the order itself, if it had not followed the enemy in this acknowledged distinction. It has likewise been urged that cases may be found in which the court has presumed a revocation, though no such revocation has been promulged. And it is certainly true that where an essential change in the circumstances that occasioned the order has, in effect, extinguished its subject matter, and that change of circumstances has been publicly declared by the state, the court has not thought it necessary to wait for a formal revocation itself. In the case of the *Baltick* order, by which, in compliance with the wishes of its allies in the war, the government of this country granted an immunity from the molestation of capture in that sea; the court held that order to be revoked when the state had declared, that most of those states to whose applications, as allies, that indulgence had been granted, had changed the character of allies for that of enemies. It was quite unnecessary to wait for such special revocation, when, by the general declaration of war, all hostilities had been authorized against them.

-Admitting, however, that there may be cases of presumed revocation, does it follow that this is, with any propriety, to be considered as one of those cases? The novelty of these orders in council, the magnitude, the complexity, the extraordinary nature of the facts to which they owe their origin, the attention which they called for and excited both at home and abroad, the pledges given by this state and accepted by other states, all disqualify this court from taking upon itself to apply a presumed revocation in any such case.

Supposing, however, that the court felt itself at liberty to accept as satisfactory other evidence of a sincere retraction of the French decrees, what is the amount of the evidence offered? No edict, no publick declaration of repeal, no reference to cases in which the courts of that country have acted upon any such revocation. The only case mentioned was that of the New Orleans Packet, and it was brought forward in such a way, so void of all authenticity, and of all accurate detail of particulars, as to make it hardly possible for me to allude to it with any propriety, and much less with any legal effect. What the circumstances of that case were, in what form, and under what authority, and on what account released, did not at all appear: whether at all applicable to the present question, whether a mere irregularity, or what was its real character, the court could not learn. This however is matter of notoriety, that these decrees are pronounced fundamental laws of the French empire; that they were declared so in their original formation, and that they have been since so declared repeatedly and recently, long since the date of the present transaction. The declaration of the person styling himself duke de Cadore imports no revocation; for that declaration imports only a conditional retraction, and this upon conditions known to be impossible to be complied with. It has been urged that the American government has considered it otherwise, and has so declared it for the regulation of the conduct of the people of that country. If such is the fact, it is not for me to lose sight of that respect which is due to the acts of a foreign government, so far as to question the propriety of any interpretation which they may have given to such an instrument. But when the effect of such an instrument is pressed upon me for the purpose of calling for my decision, I must be

allowed to interpret it for myself, and to act upon that interpretation. And to me it appears, that the declaration, clogged as it is with stipulations known to be beyond the reach of all rational hope of any possible compliance, is in effect a renunciation of any serious purpose of repealing those decrees. I think I might invoke the authority of the government of the United States for denying to this French declaration the effect of an absolute repeal, when I observe that the period which they have allowed to the British government for revoking our orders in council extends to the 2d of February; an allowance which could hardly have been made if the revocation on the part of France had really taken place at the time to which that declaration purports to refer.

In the absence of any declaration of the British government to such an effect, there is a total failure of all other evidence, (if the court were at liberty to accept other evidence as satisfactory,) that the French decrees had been revoked. If I were driven to decide upon that evidence, independent of all evidence to be regularly furnished by the government under whose authority I sit, I think I am bound to pronounce that no such revocation has taken place, and therefore that the orders in council subsist in perfect justice as well as in complete authority.

It is incumbent upon me, I think, to take notice of an objection of Dr. Herbert's, to the existence of the orders in council, namely, that British subjects are, notwithstanding, permitted to trade with France, and that a blockade which excludes the subjects of all other countries from trading with ports of the enemy, and at the same time permits any access to those ports to the subjects of the state which imposes it, is irregular, illegal, and null. And I agree to the position, that a blockade, imposed for the purpose of obtaining a commercial monopoly for the private advantage of the state which lays on such blockade, is illegal and void on the very principle upon which it is founded. But, in the first place, (though that is matter of inferior consideration) I am not aware that any such trade between the subjects of this country and France is generally permitted. Licenses have been granted certainly in no inconsiderable numbers; but it never has been argued that particular licenses would vitiate a

blockade. If it were material in the present case, it might be observed, that many more of these licenses had been granted to foreign ships than to British ships, to go from this country to France, and to return here from thence with cargoes. But, secondly, what still more clearly and generally takes this matter out of the reach of the objection, is the particular nature and character of this blockade of France, if it is so to be characterized. It is not an original, independent act of blockade, to be governed by the common rules that belong simply to that operation of war. It is in this instance a counteracting reflex measure, compelled by the act of the enemy, and as such subject to other considerations arising out of its peculiarly distinctive character. France declared that the subjects of other states should have no access to England; England, on that account, declared that the subjects of other states should have no access to France. So far this retaliatory blockade (if blockade it is to be called) is co-extensive with the principle: neutrals are prohibited to trade with France, because they are prohibited by France from trading with England. England acquires the right, which it would not otherwise possess, to prohibit that intercourse, by virtue of the act of France. Having so acquired it, it exercises it to its full extent, with entire competence of legal authority; and having so done, it is not for other countries to inquire how far this country may be able to relieve itself further from the aggressions of that enemy. The case is settled between them and itself by the principle on which the intercourse is prohibited. If the convenience of this country before this prohibition required some occasional intercourse with the enemy, no justice that is due to other countries requires that such an intercourse should be suspended on account of any prohibition imposed upon them on a ground so totally unconnected with the ordinary principles of a common measure of blockade, from which it is thus distinguished by its retaliatory character.

The last question is, are there any circumstances addressed to equitable consideration, that can relieve the claimants from the penal effects of these orders? Certainly, if any could be urged that arose from the conduct of the British government itself, they might be urged with a powerful and even irresistible effect; but if they found

themselves in the fraud of the enemy, or in the misapprehensions of the American government induced by the fraud of the enemy, they found no claim on the British government or on British tribunals. In the one case they must resort for redress to a quarter where, I fear it is not to be found—to the government of the enemy: in the other, where, I presume, it is to be found—to the government of their own country.

Upon the declaration of the American government I have already said as much as consists with the respect which I am bound to pay to the declaration of a foreign government, professedly neutral. The customhouses of that country, say the claimants, cleared us out for France publicly, and without reserve. They did so; but they left the claimants to pursue all requisite measures for their own security, in expectation I presume, that they would inform themselves, by legal inquiry, whether the blockade continued to exist, if its continuance was uncertain. That it was perfectly uncertain in their own apprehensions, is clear from the tenour of these letters of instructions to the different masters of these vessels. In these letters, which are numerous, all is problematical between hope and fear; a contest between the desire of getting first to a tempting market on the one side, and the possible hazard of British capture on the other; and it is to be regretted that the eagerness of mercantile speculation has prevailed over the sense of danger. In such a state of mind, acting upon circumstances, the party must understand that he takes the chance of events—of advantage, if the event which he hopes for has taken place, and of loss if it has not. It is his own adventure, and he must take profit or loss as the event may throw it upon. He cannot take the advantage without the hazard of loss, unless by resorting to British ports in the channel, where certain information may be obtained, on the truth of which all prospects of loss or profit may safely be suspended. On the British government no responsibility can be charged. They were bound to revoke as soon as they were satisfied of the sincere revocation of the French decrees. Such satisfaction they have not signified, and I am bound to presume that no such satisfaction is felt. With respect to the demand of warning, the orders themselves are full warning. They are the most formal admonitions that could

be given; and being given and unrevoked, they require no subsidiary notice.

On the grounds of the present evidence, I therefore see no reason to hold the claimants discharged; but I do not proceed to an ultimate decision upon their interests, till I see the effect of that additional evidence which is promised to be produced upon the fact of the French retraction of their decrees, said to have been very recently received from Paris, by the American charge d'affaires in this country. Having no official means of communication with foreign ministers, I shall hope to receive the information in a regular manner, through the transmission of the British officers of state.

Final adjudication suspended.

Extract of a Letter from J. S. Smith, Esq. to the Secretary of State. London, June 16, 1811.

"ON the 9th inst. the day after Mr. Hamilton left town with my despatches, I received the enclosed note from lord Wellesley, appointing Tuesday the 11th to see me at his house. I immediately wrote to captain Dent, to detain the frigate, until he heard from me again, but he had gone to sea before my letter reached Cowes, and I am now compelled to send this by another opportunity.

"I waited on lord Wellesley, according to his appointment. He commenced the conversation by observing that, whenever there was any thing of importance to be communicated, it was better to do it in writing, as when merely verbal it was liable to be misunderstood; that he did not mean any thing personal to me; that the same rule was observed by the other foreign agents here, and was customary. I replied that I was ready to pursue this system; that in the note which I had written him, enclosing the non-importation act, I had not gone into a lengthy discussion, as that whatever I might say would be only a recapitulation of what had so often been written. I however proceeded to explain the new act, and to remark to him the particularly amicable nature of the second section of it; that I conceived this to be a most favourable opportunity for Great Britain to abandon her system of restrictions; and particularly at this moment, when I had communicated

practical instances of the repeal of the obnoxious measures of France. He said that he did not think they would do any thing before they heard from Mr. Foster, who had full instructions upon this, and the other points in dispute.

"I turned the conversation to the subject of your letter of the 22d of January, and asked him if Mr. Pinkney had given any explanations about the taking possession of West Florida. He replied, that the first he had heard of it, was through Mr. Morier, though he had reason to expect something from Mr. Pinkney; that Mr. Foster, however, was instructed on this point. I asked if East Florida was included in these instructions? He replied that it was. I then communicated to him the substance of your letter, and explained with frankness the intentions of the United States. He expressed his wish that this, as well as the other subjects, should lay over until they heard from America.

"I showed him the letter of the President to his majesty, containing Mr. Pinkney's permission to return. He said, that it would be proper that I should write him a note, enclosing this letter, and requesting him to present it to the prince regent.

"The vessels detained here under the orders in council, have not yet been finally condemned, and I represented to lord Wellesley how important it was, that they should be released, or that they should be still suspended. He said that he desired it also, but that private rights being concerned, it was difficult for government to interfere for their longer suspension. I am induced to believe that they will wait until they hear from Mr. Foster."

Extract of a Letter from John Spear Smith, Esq. to the Secretary of State of the United States. London, June 27, 1811.

"I HAVE the honour to enclose a copy of the final decision of sir William Scott, in the case of the Fox and others.

"The court, on Tuesday last, the 25th inst. condemned the remaining American vessels captured under the orders in council. As soon as I can procure a correct list of

them, I will have the honour to forward it. The seamen, who are left destitute by these condemnations, will be taken care of by general Lyman. They are of course numerous."

Sir William Scott's Sentence in the Case of the Fox, &c. &c.

JUDGMENT RESUMED.

SIR WILLIAM SCOTT. As the claimants have failed to produce any evidence of the revocation of the French decrees, and have nothing to offer as the foundation of a demand for further time, I must conform to what I declared on a former day, and proceed to make the decree effectual. I should certainly have been extremely glad to have received any authentick information tending to show that the decrees of France, to which these orders in council are retaliatory, had been revoked; and it was upon a suggestion offered on the part of the claimants, that despatches had been very recently received from Paris by the American minister in this country, by which the fact might be ascertained, that the court on the former day deferred its final judgment. It would have been unwilling to proceed to the condemnation of these vessels, without giving the proprietors the opportunity of showing that the French decrees, on which our orders in council are founded, had been revoked. But they admit that they have no such evidence to produce; the property of the ships and cargoes is daily deteriorating, and it is my duty to delay no longer the judgment which is called for on the part of the captors.

From every thing that must have preceded, and from every thing that must have followed the revocation of the French decrees, if such revocation had taken place, I think I am justified in pronouncing that no such event has ever occurred. The only document referred to on behalf of the claimants is the letter of the person styling himself *duc de Cadore*. That letter is nothing more than a conditional revocation: it contains an alternative proposed, either that Great Britain shall not only revoke her orders in council, but likewise renounce her principles of blockade, principles founded upon the ancient and established

law of nations ; or that America shall cause her neutral rights to be respected ; in other words, that she shall join France in a compulsive confederation against this country. It is quite impossible that England should renounce her principles of blockade to adopt the new-fangled principles of the French government, which are absolute novelties in the law of nations ; and I hope it is equally impossible that America should lend herself to an hostile attempt to compel this country to renounce those principles on which it has acted, in perfect conformity to ancient practice and the known law of nations, upon the mere demand of the person holding the government of France. The *casus faderus* therefore, if it may be so called, does not exist ; the conditions on which alone France holds out a prospect of retracting the decrees, neither are nor can be fulfilled. Looking at the question therefore, *a priori*, it cannot be presumed that the revocation has passed. On the other hand, what must have followed if such had been the fact ? Why, that the American minister in this country must have been in possession of most decisive evidence upon the subject ; for I cannot but suppose that the first step of the American minister at Paris would have been to apprise the American minister at this court, of so momentous a circumstance, with a view to protect the American ships and cargoes which had been brought in under the British orders in council. If no such information has been received by him, there never was a case in which the rule "*De non apparentibus et non existentibus eadem est ratio*" can more satisfactorily apply. For it is quite impossible that such a revocation can have taken place without being attended with a clear demonstration of evidence that such was the fact.

I am, therefore, upon every view of the case, of opinion, that the French decrees are at this moment unrevoked. But if by any possibility it can have happened that an actual revocation has taken place against the manifest import of the only publick French declaration referred to, and without having been yet communicated to the American minister in this country, who was so much concerned to know it, for the benefit of the persons for whose protection it must have been principally meant ; the parties will have the advantage of the fact if they can show

upon an appeal that those decrees have been revoked at a time and in a manner that could justly be applied to the determination of these causes; revoked at a period which would reach the dates of this capture, and in a manner unincumbered with stipulations, which it was well known this country could never accept, and to which there was every reason to presume that the justice of America could never permit her to accede, upon the refusal of Great Britain. On such a state of evidence the claimants will carry up with them to the superior court, the principle that might entitle them to protection according to the view which this court has taken of the subject. But things, standing as they do before me; all the parties having acted in a manner that leads necessarily to the conclusion, that no *bona fide* revocation of the Berlin and Milan decrees has taken place; I must consider these cases as falling within the range of the British orders in council, and as such they are liable to condemnation.

Extract of a Letter from Mr. J. S. Smith, to the Secretary of State. London, July 10, 1811.

"ENCLOSED is a list of the American vessels that have been condemned at the late sittings of the court of admiralty. Two only of them have not yet been decided upon; they will, however, share the fate of the others. Vessels and cargoes will be sold, and the money deposited in court to await for twelve months the appeal of the captured, from which very little is, I fear, to be expected."

LIST OF VESSELS CONDEMNED. (Received in J. S. Smith's Letter of July 10, 1811.)

Vessel.	Captain.	From whence.	Cargoes.	Yard.	Valuation.	Cargo.
* Brig Fox,	Porter,	Boston,	Colonial produce, &c.	\$ 10,000	\$ 20,500	
* Schooner Betsey,	Lindsey,	Marblehead,	Fish and oil, indigo and cotton,	8,500	21,500	
* Mary,	Vickery,	Do.	(green.)	2,000	1,800	
* Polly,	Devereux,	Do.	do.	2,000	1,800	
* Ann,	Dolliver,	Do.	do.	2,000	1,800	
* Woodbridge,	Kimman,	Do.	Fish, oil, &c.	3,500	7,000	
* Ship Danube,	Pierce,	Boston,	Cotton, rice, indigo, &c.	20,000	35,000	
* Brig Matilda,	Lee,	New York,	Cotton, rice, indigo, &c.	12,000	25,000	
* Eliza,	Corgie,	Boston,	Gotton, fish, teas and nankens,	8,000	38,000	
* Ship Adolphus,	Brevout,	Philadelphia,	Cotton, peltry, &c.	20,000	45,000	
* Rebecca,	Tobey,	New York,	Tobacco, peltry, &c.	15,000	30,000	
* Schooner Two Sisters,	Bridges,	Do.	Sugar, coffee, &c.	2,000	1,800	
* Brig Garland,	Haff,	Marblehead,	Fish, (green)	8,000	30,000	
* Ship Betsey,	Millwood,	New York,	Cotton, indigo, &c.	13,000	20,000	
* Brig Ida,	Stacy,	Norfolk,	Tobacco,	17,000	7,000	
* Beauty,	Morris,	Boston,	Fish, &c. (dry)	10,000	25,000	
* Ship Charleston Packet,	Weakes,	Philadelphia,	Cotton, colonial, &c.	12,000	25,000	
* Andrew,	Coggus,	Do.	Cotton and peltry,	12,000	25,000	
* Rose in Bloom,	Ahot,	Bayonne,	Brandy, wine and silks,	8,000	30,000	
* Projector,	Brown,	Do.	do.	3,500	14,000	
* Schooner Lidia,	Kelham,	New York,	Cotton, ivory, &c.	8,000	30,000	
* Ship Eleanor,	Kempton,	Bordeaux,	Brandy, wine and silks,	3,500	4,000	
* Schooner Helen,	Elkins,	Savannah,	Cotton, rice and tobacco,	4,000	6,000	
* Brig Telamachus,	Berry,	Marblehead,	Fish and oil,	2,000	1,800	
* Schooner Lark,	Cloutman,	Bordeaux,	Brandy, wine and silks,	25,000	45,000	
* Ship Golden Fleece,	Silkman,	Marblehead,	Fish, (green)	7,500	15,000	
* Louisiana,	Richards,	Charleston,	Cotton, rice, wax, &c.	15,000	50,000	
* Brig Fox,	Gooday,	New York,	Cotton, &c.			
		Do.	Cotton and indigo,			

* Condemned June 18. † Condemned June 21. ‡ Condemned July 5. ¶ Not yet decided, but must be like the others.

Mr. J. S. Smith to the Secretary of State. London, July 22, 1811.

SIR,—I have the honour to enclose a copy of Mr. Russell's letter to me of the 14th instant, which contains the agreeable intelligence of the release of three of the captured American vessels. I shall communicate its substance to this government without the formality of an official note, supposing that Mr. Foster is fully instructed on the subject of the orders in council, and that any thing I might under these circumstances offer would be attended with no advantage. I enclose also a letter from Mr. Russell of the 5th inst.

I have the honour to be, &c.

J. S. SMITH.

The Honourable the Secretary of State.

☞ The papers that came in this letter make part of the enclosures in Mr. Monroe's letter to Mr. Foster of 17th October, and are printed with it, see page 90.

Extract of a Letter from John S. Smith, Esq. to the Secretary of State of the United States. London, August 15, 1811.

"I HAVE NOW the honour to transmit to you lord Wellesley's answer to my note covering Mr. Russell's letter of the 14th July, and also another note from his lordship on the same subject, which I received last evening."

☞ The papers that came in this letter make part of the enclosures in Mr. Monroe's letter of the 17th October, to Mr. Foster, and are printed with it, see page 90.

CORRESPONDENCE OF JONATHAN RUSSELL, ESQUIRE.

Mr. Russell to Mr. Smith, Secretary of State. Paris, January 16, 1811.

SIR,—Your letter of the 8th of November, relative to the powers given by this government to its consuls in the

United States, under its decree concerning licenses, was received by me on the 11th instant, and the next day I communicated its contents to the duke of Cadore in a note, a copy of which you will find enclosed.

I remain, &c. &c.

JONATHAN RUSSELL.

The Hon. Robert Smith, &c.

Mr. Russell to the Duke of Cadore. Paris, January 12, 1811.

SIR,—The publick journals and letters from general Armstrong have announced to the American government an imperial decree, by which permission is to be granted to a stated number of American vessels, to import into France from certain ports of the United States, the articles therein specified, and to export in return such productions of the French empire as are also enumerated in said decree. This trade, it would appear, is to be carried on under the authority of imperial licenses, and can only be perfected by the act of the French consul residing within the jurisdiction of the United States at the specified ports.

The United States have no pretension of right to object to the operation of commercial regulations, strictly municipal, authorized by the French government to take effect within the limits of its own dominions; but I am instructed to state to you the inadmissibility, on the part of the United States, of such a consular superintendence as that which is contemplated by this decree respecting a trade to be carried on under licenses.

France cannot claim for her consuls, either by treaty or custom, such a superintendence. They can be permitted to enjoy such legitimate functions only as are sanctioned by publick law, or by the usage of nations growing out of the courtesy of independent states.

Besides, the decree in question professes to invest certain consuls with a power, which cannot be regularly exercised in the United States without the tacit permission of the American government; a permission that cannot be presumed, not only because it is contrary to usage, but because consuls thus acting would be exercising functions

in the United States in virtue of French authority only, which the American government itself is not competent to authorize in any agents whatever.

If the construction given by the government of the United States to this decree be correct, the government of France should not for a moment mislead itself by a belief, that its commercial agents will be permitted to exercise the extraordinary power thus intended to be given to them.

I pray your excellency, &c. &c.

JONATHAN RUSSELL.

His Excellency the Duke of Cadore.

Mr. Russell to Mr. Smith, Secretary of State. Paris, Jan., 21, 1811.

SIR,—On the 18th instant I received a note dated that day from the duke of Cadore, in answer to the representation which I had made to him on the 12th of this month, relative to the exceptionable powers intended to be exercised by French consuls in the United States, in perfecting the contemplated trade under licenses.

You will perceive with satisfaction, that not only these powers, but the system itself, under which they were to have been exercised, have been abandoned.

I have the honour, &c. &c.

JONATHAN RUSSELL.

Hon. Robert Smith, &c. &c.

TRANSLATION.

The Duke de Cadore to Mr. Russell. Paris, January 18, 1811.

SIR,—I have read with much attention your note of the 12th January, relative to the licenses intended to favour the commerce of the Americans in France. This system had been conceived before the revocation of the decrees of Berlin and Milan had been resolved upon. Now circumstances are changed by the resolution taken by the United States, to cause their flag and their independence to be respected, that which has been done before this last

epoch, can no longer serve as a rule under actual circumstances.

Accept the assurances of my high consideration.

CHAMPAGNY,
Duke de Cadore.

*Mr. Russell to the Duke of Bassano. Paris, April 29,
1811.*

SIR,—Encouraged by the assurances which your excellency was pleased to give me in the conversation which I had the honour to hold with you yesterday, that the French government was disposed to promote, as far as might be in its power, the success of the mission of the special minister of the United States to the court of Denmark, I dare persuade myself that your excellency will feel no hesitation in returning such an answer to the following inquiries as shall place the facts to which they relate beyond the possibility of doubt or controversy.

1st. Did not the minister of foreign relations, by a despatch dated the 20th of April, 1808, authorize the consuls of France in the United States to deliver certificates of origin to vessels destined for neutral or allied ports, and prescribe the formalities required for such certificates?

2d. Was not the despatch of the duke of Cadore, of the 30th of August last, the first that was received in the United States, either by the French minister or consul general there, prohibiting the further delivery by French consuls of certificates of origin, except to vessels destined to French ports?

3d. Was not this last mentioned despatch first received by general Turreau, on the 13th of November last, and for the first time communicated by him on that day to the French consuls? And were not these consuls in the official and authorized practice, until the said 13th of November, of furnishing certificates of origin to American vessels bound to neutral ports, or to ports belonging to the allies of France, and might not some of these consuls, by reason of their distance from the place of residence of general Turreau, have lawfully executed and delivered such certificates several days subsequent to that time?

These facts are directly established by the letter of general Turreau to Mr. Smith, of the 12th of November last, or necessarily inferred from the declaration contained in that letter, and I cannot permit myself to doubt that your excellency will readily repeat them in a form that shall claim the attention of the Danish government, and induce it to correct any errors which an ignorance or misapprehension of them may have occasioned in its proceedings against American property.

I rely with the more confidence on the frankness of your excellency in according the request now presented to you, as a refusal might operate the confiscation of much innocent property, and at the same time appear to falsify the lawful acts of the consuls and the official declaration of the minister of France in the United States.

I beg leave to renew to your excellency the assurance, &c.

JONATHAN RUSSELL.

His Excellency the Duke of Bassano.

Mr. Russell to Mr. Smith. Paris, May 27, 1811.

SIR,—By the first opportunity which presented itself after the admission of our vessels on the 4th of May, I communicated this event to the American charge d'affaires at London, in hopes that it might be useful there. The enclosed is a copy of the note which I addressed to him on the occasion.

I am, &c. &c.

JONATHAN RUSSELL.

The Honourable Robert Smith,
Secretary of State of the United States.

Mr. Russell to Mr. J. S. Smith. Paris, May 10, 1811.

SIR,—I hand you herewith a copy of a letter to me from his excellency the duke of Bassano, dated the 4th inst.* and enclosing a list of the American vessels

* See this copy in the enclosures of Mr. Russell's letter 15th July, which will be found in a subsequent part of this correspondence.

whose cargoes have been admitted by order of the emperor.

As this list contains all the American vessels, except one only, whose papers were mislaid, which have arrived spontaneously in the ports of France, since the first of November last, which had not already been admitted; the measure adopted by this government may perhaps be considered to be of a general character and a consequence of the actual relations between the two countries, growing out of the revocation of the Berlin and Milan decrees, so far as they violated the neutral rights of the United States.

I am, sir, with great consideration, &c.

JONATHAN RUSSELL.

John S. Smith, Esq. &c. &c.

Mr. Russell to the Secretary of State. Paris, June 9, 1811.

SIR,—The case of the New Orleans Packet having apparently excited considerable interest, it may not be unacceptable to you to receive a more particular account of it than I have hitherto transmitted.

This vessel, owned by Mr. Alexander Ruden, of New York, left that place on the 25th of July, with a clearance for Lisbon, but actually destined for Gibraltar. Her cargo, likewise the property of Mr. Ruden, consisted of 207 whole tierces, and 31 half tierces, of rice, 330 bags of Surinam cocoa, 10 hogsheads of tobacco, 6 tierces of hams, 50 barrels of pork, 60 barrels of beef, 200 barrels of flour, 30 tierces of beans and 64 firkins of butter. On her passage to Gibraltar, she was boarded by an English frigate and an English schooner, and after a short detention allowed to proceed. On arriving at Gibraltar the 26th of August, Mr. Munroe, the supercargo, proceeded to sell the cargo and actually disposed of the flour, the beans and the butter, when about the 20th of September, a packet arrived there from England bringing newspapers containing the publication of the letter from the duke of Cadore of the 5th of August. On the receipt of this intelligence, Mr. Munroe immediately suspended his sales, and after having consulted with Mr. Hackley, the American consul at Ca-

diz, he determined to proceed with the remainder of his cargo to Bordeaux. He remained however at Gibraltar until the 22d of October, that he might not arrive in France before the 1st of November, the day on which the Berlin and Milan decrees were to cease to operate. He arrived in the Garonne, on the 14th of November, but by reason of his quarantine did not reach Bordeaux before the 3d of Dec. On the 5th of this month the director of the customs there seized the New Orleans Packet and her cargo under the *Milan decrees* of the 23d Nov. and 17th December, 1807, expressly set forth, for having come from an English port and for having been visited by an English vessel of war. These facts having been stated to me by Mr. Munroe, or by Mr. Meyer, the American vice-consul at Bordeaux, and the principal one, that of the seizure under the Milan decrees, being established by the *proces verbal* put into my hands by Mr. Martini, one of the consignees of the cargo, I conceived it to be my duty not to suffer the transaction to pass unnoticed, and thereby permit it to grow into a violation of the engagements of this government. While I was considering the most proper mode of bringing the conduct of the customhouse officer at the port under the eyes of his superiors, I learnt of the arrival of the Essex at L'Orient. From the time at which this frigate was reported to have left the United States, I had no doubt that she had brought the proclamation of the President, announcing the revocation of the very decrees under which this precipitate seizure had been made. I could but think, therefore, that it was important to afford to this government an opportunity of disavowing the conduct of its officer, so incompatible with the engagements on which the President had in all probability reposed with confidence, in season to show that this confidence had not been mistimed or misplaced. To have waited for the receipt of the proclamation in order to make use of it for the liberation of the New Orleans Packet, appeared to me a preposterous and unworthy course of proceeding, and to be nothing better than absurdly and basely employing the declaration of the President that the Berlin and Milan decrees *had been* revoked, as the means of obtaining their *revocation*. I believed it became me to take higher ground, and, without confining myself to the mode best calculated

to recover the property, to pursue that which the dignity of the American government required.

A crisis in my opinion presented itself, which was to decide whether, the French edicts were retracted as a preliminary to the execution of our law, or whether by the non-performance of one party and the prompt performance of the other, the order in which these measures ought to stand was to be reversed, and the American government shuffled into the lead where national honour and the law required it to follow. Uncertain what would be the conduct of this government, but clear what it ought to be, I thought it politic to present briefly the honest construction of the terms in which the revocation of the decrees was communicated on the 5th of August, that the conditions might not be tortured into a pretext for continuing them. I believed this to be the more necessary as no occasion hitherto occurred for offering such an interpretation. I likewise supposed it to be desirable to take from this government, by a concise statement of facts, the power of imputing neglect to the United States, in performing the act required of them, for the purpose of finding in this neglect a colour for again executing the decrees. These were my views in writing promptly and frankly on the occasion.

So acceptable indeed did I suppose it would be to the feelings of the American government, to obtain at least an explanation of an act ostensibly proving the continued operation of the decrees, previous to communicating the proclamation of the President, announcing their revocation, that, although I received this proclamation on the 13th of December, I deferred the communication of it to the duke of Cadore, until the 17th of that month; nor should I then have communicated it, had not an interview with him on the 15th, led me to believe that much time might be necessary to procure official reports from the customhouse, relative to the seizure in question, and that until these reports were received, it would be impossible formally to explain or correct this proceeding. When, however, I declined, uninstructed as I was, incurring the responsibility of this protracted delay, and decided on communicating the proclamation before a satisfactory explanation was received, I took care to guard against any misconstruction, by explicitly declaring at the outset that this proclamation

"had been issued alone on the ground that the revocation of the Berlin and Milan decrees did not depend on any condition previously to be performed by the United States."

The customhouse officers at Bordeaux commenced unloading the New Orleans Packet on the 10th of December, and completed this work on the 20th of that month, as appears by their *proces verbal* of those dates. That of the 20th expressly declares that the confiscation of this property was to be pursued before the imperial council of prizes at Paris, according to the decrees of the 23d November and 17th of December, 1807; or, in other words, the decrees of Milan. The decree of the 23d of March, or the Rambouillet decree, is also mentioned; but as I wrote my note of the 10th of December, with a view only to the letter of the duke of Cadore announcing the revocation of the Berlin and Milan decrees, and as the *proces verbal* of the 5th appears to waive the application of the Rambouillet decree as unnecessary, I took no notice of it.

On Monday the 17th of December, my remonstrance was submitted to a council of commerce, and referred by it to the director general of the customs for his report. From this time, all further proceedings against the New Orleans Packet were suspended. The papers were not transmitted to the council of prizes, nor a prosecution instituted before that tribunal for the confiscation of the property, as was professedly the intention of the officers concerned in the seizure. This prosecution was not only abandoned, but on the 9th of January the vessel and cargo were placed at the disposition of the consignees, on giving bond to pay the estimated amount, should it definitively be so decided. Nothing is now wanting to complete the liberation of the New Orleans Packet and her cargo but the cancelling of this bond.

It appears, therefore, that the remonstrance of the 10th of December arrested the proceeding complained of, before it had assumed a definitive character, or unequivocally become a breach of faith, and not only rescued the property from the seizure with which it had been visited, but, by procuring its admission, placed it in a situation more favourable than that of many other vessels and cargoes

which continued to be holden in a kind of *morte-main* by the suspension of all proceedings with regard to them.

I have the honour to be, &c. &c.

JONA. RUSSELL.

Hon. Secretary of State of the United States.

P. S. July 5th. I have the satisfaction to announce to you that since writing the above, an order has been given to cancel the bond, and a letter just received from the commercial agent of the United States at Bordeaux, informs me that it is actually cancelled.

Mr. Russell to Mr. Monroe. Paris, July 14, 1811.

SIR,—I have the honour to hand you herein, a copy of my note of the 8th instant to the duke of Bassano, claiming the release of twenty-three American seamen stated to have been pressed into the French service at Dantzic and in its vicinity. When I called on the duke on the 9th, he acknowledged the receipt of this note, and said that he should immediately write to the minister of marine on the subject. In the conversation which I had with him yesterday, he informed me that he had performed this engagement, and that the minister of marine had replied, that no American citizens had been pressed by his orders; that the city of Dantzic had been required to furnish a certain number of seamen, and was alone responsible for the manner in which it had complied with this requisition. The duke of Bassano also added, that my note had been laid before the emperor, and that his majesty had ordered, that on the arrival of the seamen from Dantzic at Antwerp, where they were expected yesterday, all that were American citizens should be discharged, and the city of Dantzic should be required to furnish others in their stead. From the solicitude which the duke of Bassano evidently discovered to get rid of the imputation of having pressed our citizens, I doubt not every thing will be done in this affair to remove all cause of complaint.

I am, &c. &c.

JONATHAN RUSSELL.

The Secretary of State of the United States.

Mr. Russell to the Duke of Bassano. Paris, July 8, 1811.

SIR,—I have just received information, by a letter from J. W. Zubre, Esq. who holds a commission as consul of the United States at Stettin, that on the 17th ult. *twenty-three* American seamen passed that place, under escort of a French guard, to be put on board the ships of war at Antwerp. It is represented to me that these seamen had been forcibly pressed, at Dantzic and other places on the Baltic, by order of his excellency the minister of marine. In confirmation of this fact, I have a letter from captain Charles Payne, of the American ship *Atlantick*, taken into Dantzic by a French cruiser, stating that twelve of his men, including his mate, had been pressed in this way at that place. These twelve men probably constitute a part of the twenty-three above mentioned.

It is my duty to engage your excellency to cause an inquiry to be had, to the competent authority, into these facts, and to procure the release of all the seamen above mentioned who are citizens of the United States.

I pray your excellency to accept, &c.

JONATHAN RUSSELL.

His Excellency the Duke of Bassano.

Extract of a Letter from Mr. Russell to the Secretary of State of the United States. Paris, July 15, 1811.

"ON the 5th of that month [May] I received a note [No. 1] from the duke of Bassano, dated the 4th, containing a list of sixteen American vessels whose cargoes had been admitted by order of the emperor. I immediately transmitted to you several copies of this communication, and I gave you on the 8th such an account [No. 2] of the admitted cases, as might aid you in forming a correct estimate of the political value of the measure adopted in their favour.

Although I was fully impressed with the importance of an early decision in favour of the captured vessels, none of which had been included in the list above mentioned, yet I deemed it proper to wait a few days before I made an application upon the subject. By this delay I gave the

government here an opportunity of obtaining the necessary information concerning these cases, and of pursuing spontaneously the course which the relations between the two countries appeared to require. On the 11th, however, having learnt at the council of prizes that no new order had been received there, judged it to be my duty no longer to remain silent, lest this government should erroneously suppose that what had been done was completely satisfactory to the United States, and, construing my silence into an acquiescence in this opinion, neglect to do more. I therefore on that day addressed to the duke of Bassano my note [No. 3] with a list of American vessels captured since the 1st of November. On the 16th, I learnt that he had laid this note, with a general report on it, before the emperor, but that his majesty declined taking any decision with regard to it, before it had been submitted to a council of commerce. Unfortunately, this council did not meet before the departure of the emperor for Cherbourg; and during his absence, and the festivals which succeeded it, there was no assemblage of this body.

Immediately on receiving the communication of the duke of Bassano of the 4th of May, I addressed him a note [No. 4] concerning the brig *Good Intent*, detained at St. Andero. Although this vessel had in fact been captured, yet, from the peculiar circumstances of the case, I hoped that she would be placed on the same footing as those which had been admitted. The answer [No. 5] which was returned by the duke of Bassano, dated the 25th and received the 28th, announced to me, however, that this affair must be carried before the council of prizes. Wishing to rescue this case from this inauspicious mode of proceeding, I again addressed him in relation to it, in a note [No. 6] on the 2d of June. If I could not obtain at once the restoration of this vessel, it was desirable, at least, that she should be admitted to the benefit of the general measure, which I insinuated might be taken in favour of the captured class mentioned in my note of the 11th of May.

As in this note I have stated the case of the *Good Intent* to be analogous to those of the *Hare* and the *John*, it may be proper to explain to you both the points of resemblance and diversity, in order to reconcile this note with my declaration, that no captured vessel was on the list of the 4th of May. The cases agree in the destination to places un-

For the authority of France, and in the arrestation by launches in the service of the French government; they differ in the Hare and John having already, before they were taken, arrived at the port, and within the territorial jurisdiction of the country to which they were bound, and the Good Intent having been taken without such jurisdiction, and conducted to a port to which she was not destined. The taking possession of the Hare, and the John, may be considered then as a seizure in port, and that of the Good Intent as a capture on the high seas.

On perceiving that the schooner Friendship was not named in the list of admitted vessels, I caused inquiry to be made at the customhouse concerning the cause of this omission. It was stated that her papers had been mislaid, but that search was making for them, and that, when found, a report would immediately be made. I waited for this report until the 18th of May, but finding it had not been made, I conceived it might be useful, in order to accelerate it, and to render complete the admission of the entire class to which this case belonged, to attract towards the Friendship the attention of the minister of foreign relations. With this view, I presented to him my note [No. 7] of that date.

Having reflected much on the condition, attached to the admission of the American cargoes, to export two thirds of the proceeds in silks, and being persuaded that the tendency of this restriction, added to the dangers of a vigilant blockade, and to the exactions of an excessive tariff, was to annihilate all commercial intercourse between the two countries, I believed it would not be improper for me to offer to this government a few remarks on the subject. This I was the more inclined to do, as it was to be apprehended that this condition was not imposed as an expedient, for temporary purposes only, but that it was intended to be continued as the essential part of a permanent system. In a note, therefore, of the 10th of June, [No. 8] I suggested to the duke of Bassano the evils which might be expected naturally to result from the operation of this restriction on exports. It is indeed apparent, that a trade that has to run the gauntlet of a British blockade, and is crushed with extravagant duties inwards, and shackled with this singular restriction outwards, cannot continue.

On the 14th of June, Mr. Hamilton, of the John Adams, reached Paris, and informed me that this vessel had arrived at Cherbourg. Unwilling to close my despatches by her, without being able to communicate something of a more definite and satisfactory character, than any thing which had hitherto transpired, I immediately called at the office of foreign relations, but the minister being at St. Cloud, I was obliged to postpone the interview which I sought, until the Tuesday following. At this interview I stated to him the arrival of the frigate, and my solicitude to transmit by her to the United States, some *act* of his government, justifying the expectation with which the important law which she had brought hither, had undoubtedly been passed. I urged particularly a reply to my note of the 11th of May, relative to the captured vessels, and observed, that although the mere pecuniary value of this property might not be great, yet in a political point of view, its immediate liberation was of the utmost consequence. I intimated to him at the same time, that my anxiety was such to communicate by the John Adams, a decision on these captures to the American government, that I should detain this vessel until I had received it. He replied that his sentiments accorded perfectly with mine in this matter, and ascribed the delay which had taken place to the same causes as I have assigned. He assured me, however, that he would immediately occupy himself again with this business, and unless a council of commerce should be holden within a few days, he would make a *special* report to the emperor, and endeavour to obtain a decision from him in person. He approved my intention of detaining the frigate, and engaged to do whatever might depend on him, to enable me to despatch her with satisfaction. He added that he had already made inquiries of the competent authorities, concerning the Good Intent and the Friendship, and that when their reports should be received, he would do whatever the circumstances of the cases might warrant.

I now suggested to him the evils which resulted to our commercial intercourse with France, from the great uncertainty which attended it, owing to the total want on their part of clear and general regulations. After making a few observations in explanation of this remark, I requested to know if he would have any communication to make to

me on the subject previous to the sailing of the John Adams. I was led to make this inquiry from information which I had indirectly obtained, that several resolutions for the regulation of our trade, had been definitively decreed. He replied that no such communication would be made here, but that Mr. Serrurier would be fully instructed on this head. The resolutions just mentioned, as far as I have learnt, are, to admit the produce of the United States (except sugar) without special permits or licenses; to admit coffee, sugar and other colonial produce, with such permits or licenses, and to prohibit every thing arriving from Great Britain, or places under her control.

He again mentioned the discovery of the regulation of the year twelve, authorizing the certificates of origin for French ports only, or for ports in possession of the French armies, but declared that after the most thorough examination of the archives of his department, no document or record had been found permitting these certificates to be granted for the ports of neutral or allied powers. He again, however, professed a favourable disposition towards our negotiations in Denmark, and said, "*le succès de la mission de Mons. Erving s'accorderait parfaitement avec nos sentimens, et ne contrairerait nullement notre politique.*"

With the view above stated, I detained the John Adams until the 9th instant. I had from time to time, in the mean while, informed myself of the proceedings with regard to the captured vessels, and ascertained that in fact, the duke of Bassano had made a report in relation to them. The emperor it appears, however, still wished for the decision of his council of commerce, and the report was laid before them on the first of this month, being the first time they had assembled since the date of my letter of the 11th May. I waited in daily expectation of hearing the result of their deliberations, until the 9th instant, when, conceiving sufficient time had been allowed for receiving it, and not feeling perfectly at my ease under the responsibility I was incurring for the unauthorized detention of the John Adams, I determined to learn from the duke of Bassano, in person, what I might reasonably expect in the matter. I accordingly procured an interview with him on the day last mentioned. I reminded him of what had passed at our conference on the 18th ultimo, and told him that in

consequence thereof, I had kept the ship, but that I could not with propriety detain her longer, without the evident prospect of obtaining from the French government the release of the captured vessels. He expressed a conviction of the justice of my observations, and assured me that he was in hourly expectation of receiving a decision on the captured cases, and hoped that the John Adams might not be permitted to return without it. I thereupon consented to keep my despatches open until the 13th, assuring him that I could not take upon myself to protract the detention of the John Adams beyond that period.

On the 13th, about one o'clock, I received a note from the duke of Bassano, of which the enclosed [No. 9] is a copy. I waited upon him immediately, and was informed that the Two Brothers, the Good Intent, and the Star, three of the captured vessels, had been liberated. He added that no unnecessary delay would be allowed in deciding upon the whole.

I shall despatch Mr. Hamilton this day, and I shall send with him a messenger to be landed on the other side, who will carry to Mr. Smith an account [No. 10*] of what has been done here, to be used by him as he shall judge proper."

No. 1.

TRANSLATION.

The Duke of Bassano to Mr. Russell. Paris, May 4, 1811.

SIR,—I hasten to announce to you that his majesty the emperor has ordered his minister of finance to authorize the admission of the American cargoes which had been provisionally placed in deposit on their arrival in France.

I have the honour to send to you a list of the vessels to which these cargoes belong; they will have to export the amount of them in national merchandise, of which the two thirds will be in silks.

* See the letter from Mr. Russell to Mr. Smith, charge d'affaires, &c. &c. dated the 14th July, enclosed in Mr. Monroe's letter of 17th October, to Mr. Foster.

I have not lost a moment in communicating to you a measure perfectly in accord with the sentiments of union and of friendship which exist between the two powers.

Accept, sir, the assurance of my high consideration.

DUC DE BASSANO.

No. 2.

Mr. Russell to the Secretary of State. Paris, May 8, 1811.

SIR,—I had the honour to address to you on the sixth instant, by various ports, several copies of the note of the duke of Bassano to me on the 4th, containing a list of the vessels, the admission of whose cargoes had been authorized by the emperor.

This list comprises all the American vessels which had arrived, without capture, in the ports of France or the kingdom of Italy, since the first of November, and which had not already been admitted, excepting the schooner *Friendship*.

The papers of the *Friendship* had been mislaid at the customhouse, and no report of her case made to the emperor.

As the *New Orleans Packet* and her cargo had been given up *on bond* in January last, there can be no longer any question with regard to their admission; but to make their liberation complete, the bond should be cancelled.

All the vessels mentioned in the list, excepting the *Grace Ann Greene*, had come direct from the United States, without having done or submitted to any known act, which could have subjected them to the operation of the Berlin and Milan decrees, had these decrees continued in force.

The *Grace Ann Greene* stopped at Gibraltar, remained many days there, and in proceeding thence to Marseilles was captured by an English vessel of war. The captain of the *Grace Ann Greene* with a few of his people rose upon the British prize-crew, retook his vessel from them and carried her and them into the port to which he was bound.

The captain considered this re-capture of his vessel as an act of resistance to the British orders in council and as exempting his property from the operation of French decrees professedly issued in retaliation of those orders. He likewise made a merit of delivering to this government nine of its enemies to be treated as prisoners of war.

His vessel was liberated in December and his cargo the beginning of April last, and there is some difficulty in precisely ascertaining whether this liberation was predicated on the general revocation of the Berlin and Milan decrees, or on a special exemption from them owing to the particular circumstances of the case.

It is somewhat singular this vessel was placed on the list of the 4th instant, when she had been liberated and her cargo admitted so long before.

It may not be improper to remark that no American vessel, captured since the 1st of November, has yet been released or had a trial.

These are the explanations which belong to the measure I had the honour to communicate to you on the 6th inst. and may afford some assistance in forming a just appreciation of its extent and character.

I have the honour, &c.

JONA. RUSSELL.

No. 3.

Mr. Russell to the Duke of Bassano. Paris, May 11, 1811.

SIR,—I have the honour to present to your excellency a list of the American vessels which, according to the information I have obtained, have been captured by French privateers since the 1st of November last, and brought into the ports of France. All proceedings in relation to these vessels have been suspended in the council of prizes, with the same view, no doubt, as the proceedings in the customhouse had been deferred with regard to those which had arrived voluntarily. The friendly admission of the latter encourages me to hope that such of the former at least as were bound to French ports, or to the ports of the allies of France, or to the United States, especially those

in ballast, will be immediately released, and that orders will be given to bring on the trials of the remainder, should such a course be judged indispensable, without any unnecessary delay.

The measure for which I now ask, being in perfect accord with the friendly sentiments which prevail between the two countries, I persuade myself will obtain the early assent of his majesty.

I pray your excellency, &c.

JONATHAN RUSSELL.

The Duke of Bassano, &c. &c.

LIST OF AMERICAN VESSELS

Taken by French Privateers, since the 1st of November, 1810, and carried into the Ports of France.

Vessel.	Where from.	Where bound.	Cargoes.	When taken.	Where brought.
Robinson Ova,	Norfolk,	London,	Tobacco, cotton and staves,	21st December, 1810,	Dunkirk.
Mary Ann,	Charleston,	id.	Cotton and rice,	3d March, 1811,	id.
General Eaton,	London,	Charleston,	In ballast,	6th December, 1811,	Calais.
Neptune,	id.	id.	id.	7th do.	Dieppe.
Clio,	id.	Philadelphia,	English manufactures,	id.	Vessel lost off Trequier, part of cargo saved.
Two Brothers,	Boston,	St. Malo,	{ Cotton, indigo, potashes, codfish, fish-oil and dye- wood,	20th id.	{ St. Malo. N. B. This vessel was taken within the ter- ritorial jurisdiction of France.
Star,	Salem,	Naples,	{ Coffee, indigo, fish, dye- wood, &c.	2d February, 1811,	Marseilles.
Zebra,	Boston,	Tarragona,	40,000 staves,	27th January, do.	do.

No. 4.

Mr. Russell to the Duke of Bassano. Paris, May 6, 1811.

SIR,—I feel it my duty to represent to your excellency, that the American brig *Good Intent*, from Marblehead, with a cargo of oil, fish, cocoa and staves, bound to Bilboa, was captured in December last by an armed launch in the service of the French government, and carried into Santander. Mr. J. P. Rattier, the consul of his majesty the emperor at that place, has taken possession of the cargo, and sold that part which was perishable, retaining in his hands the proceeds, and placing in depot the articles unsold, until he shall receive the superior orders of his government.

The present flattering appearance that the relations between France and the United States will be preserved on the most amicable footing, encourages me to hope that the case of the *Good Intent*, after the long detention that has occurred, will attract the early attention of the French government, and that the property will be restored to the American owner.

I pray your excellency to accept the assurances of my high consideration.

JONA. RUSSELL.

His Excellency the Duke of Bassano,
Minister of Exterior Relations.

No. 5.

TRANSLATION.

The Duke de Bassano to Mr. Russell. Paris, May 25, 1811.

SIR,—The object of the letter you have done me the honour to address to me on the 7th of this month, was to remonstrate against the sequestration of the American ship the "*Good Intent*," which had been carried into St. Andero by a French vessel.

The minister of marine, to whom I hastened to write on this subject, has just answered me, that the case is car-

ried before the council of prizes, which is alone competent to decide on the validity of the capture. He adds, that it is before that tribunal, that the owners of the Good Intent ought to be prepared to establish their rights, and that he will have no other agency in this affair than to cause to be executed the decision which shall be made.

Accept, sir, the assurance of my high consideration.

LE DUC DE BASSANO.

Mr. Russell, Charge des Affaires
of the United States.

No. 6.

Mr. Russell to the Duke of Bassano. Paris, June 2, 1811.

SIR,—By the letter which your excellency did me the honour to address to me on the 25th ultimo, I perceive that the minister of marine declines interfering in the case of the American brig the Good Intent, except to enforce the decision which the council of prizes may render.

As the Good Intent was captured bound to a port in the possession of the French armies, by a launch in the service of the French government, I had persuaded myself that she would not be treated as a prize, but that she would be restored like the John and the Hare, at Civita Vecchia, without the delay of a formal trial. It was in this expectation, that I omitted to place her on the list of American vessels captured since the 1st of November last, which I had the honour to address to your excellency, in my note of the 11th ultimo. If his majesty the emperor should find it improper, upon being made acquainted with the circumstances of this case, to distinguish it from cases of ordinary capture, I presume there will be no objection to extending to it the benefit of any general decision which may be taken in regard to those mentioned in the list aforesaid.

I pray your excellency to accept the assurance of my high consideration.

JONA. RUSSELL.

His Excellency the Duke of Bassano.

No. 7.

Mr. Russell to the Duke of Bassano. Paris, May 18, 1811.

SIR,—On examining the list of vessels whose cargoes have been admitted, and which your excellency did me the honour to enclose to me in a note dated the 4th of this month, I have discovered that the schooner *Friendship* has been omitted.

This vessel, as I am informed, arrived at Bordeaux on the 6th of December last, with a cargo of coffee, which from long detention has suffered considerable damage. As there is no circumstance, within my knowledge, to distinguish the cargo of this vessel from those which have been admitted, I doubt not that her case will be inquired after, and that she will be placed upon the same footing as the others.

I pray your excellency to accept the assurance of my highest consideration.

JONA. RUSSELL.

His Excellency the Duke of Bassano,
Minister of Exterior Relations.

No. 8.

Mr. Russell to the Duke of Bassano. Paris, June 10, 1811.

SIR,—I conceive it to be my duty to represent to your excellency, that the condition, attached to the admission of American property in France, to export two thirds of the amount in silks, is attended with great inconvenience and loss to the American merchant.

A general requisition to export the neat proceeds of imported cargoes in the produce and manufactures of the French empire, would have been so obviously intended to favour its industry and to prevent any indirect advantage resulting to its enemy by the remittance of exchange, that the right and policy of the measure would have been universally acknowledged. The American merchant, in this case, permitted to select from the various and abundant productions of the arts and agriculture of France, those articles which the habits and tastes of the American people

demand, might freely and advantageously have exercised his commercial skill for the advancement of his interests, and hoped, from the profit on his investments here, to obtain an indemnity for the losses on his outward voyage.

The condition, however, imposed on him to receive two-thirds of these investments in a *particular article*, takes from him the faculty of profiting of his experience and information, either in bargaining for his purchases, or in adapting them to the wants of the market for which they are intended. The holder of this article becomes, by this requisition, the master not only of the price, but of the kind and quality of his merchandise, and his interest will strongly incite him to abuse the power which he feels. He knows full well that the purchaser cannot dispense with this merchandise, and that sooner or later he must accede to the terms on which it is offered. Should, indeed, the American merchant, from his repugnance to invest his funds in an article forced upon him, loaded with the arbitrary exactions of the seller, refuse for a while to receive it, yet, beholding these funds inactive and wasting on his hands, and his vessel perishing in a foreign port, he must eventually yield to the duress which he suffers.

Such are some of the evils, to which the condition in question will expose the American merchant in this country. In the United States, it will be by him still more severely felt.

The overstock of the article forced by this condition on the market there, exceeding the consumption, must necessarily become a drug; and the American merchant, after having taken it here against his will, and paid for it more than its ordinary value, will be compelled in the United States to keep it on hand, or to sacrifice it for the most it will bring. Thus, alternately obliged to purchase and to sell under unfavourable circumstances, he will have to add to the losses of the outward voyage the losses on the returns, and the sum of them both may amount to his ruin.

These disasters of the merchant must inevitably impair, if not extinguish the commercial intercourse between the two countries. This intercourse, exposed to unusual perils, and *oppressed with unprecedented burdens*, has already nothing in the voyage hither to tempt the enterprise.

of mercantile men; and should it be embarrassed with the restrictions of this condition, rendering the homeward voyage also unprofitable, it must undoubtedly cease. It is in vain to expect the continuance of any branch of trade, which, in all its relations, is attended with loss to those who are engaged in it.

I have taken the liberty respectfully to submit these observations to your excellency, not without a hope, that a consideration of them may lead to a remedy of the evils which they suggest.

I pray your excellency, &c.

JONA. RUSSELL.

His Excellency the Duke Bassano.

No. 9.

TRANSLATION.

THE minister of foreign relations has the honour to inform Mr. Russell, charge des affaires of the United States, that he will be happy to receive him at any time to-day before 2 o'clock, if it should be convenient to him.

He begs him to accept the assurance of his perfect consideration.

Paris, July 13, 1811.

CORRESPONDENCE OF GEORGE W. ERVING, ESQUIRE.

Mr. Erving to the Secretary of State. Copenhagen, June 23, 1811.

SIR,—Having had my audience of his Danish majesty on the 5th instant, on the 6th I addressed to Mr. de Rosenkrantz, minister of state for foreign affairs, a note upon the subject of the American cases generally, then under adjudication, by appeal before the high court of admiralty, and on the 7th, a separate note respecting the cases of capture under British convoy. Copy of those two notes, [A and B] and the lists to which they refer, I have the honour herewith to submit. In an interview which I had

with the minister on the 8th instant, in the course of conversation he told me, that, as the matter of both those notes was very important, and the latter particularly required a great deal of consideration, he must have them perfectly translated into the Danish language, to be laid before the king; therefore I must not expect very prompt replies, but in the mean time that he was sincerely desirous of doing, and would do every thing in his power to forward our business towards a favourable termination. I suppose that the convoy question may be referred to his majesty's chancery, which is the highest tribunal, and that by which the king is accustomed to declare his will in matters which he does not submit to, or chooses to take out of, the ordinary course of proceedings.

Having now fully informed myself of the business intrusted to me, it is with very great satisfaction that I find myself authorized to state to you, that the evils which our commerce has suffered here, though very considerable, yet have not been quite so extensive as has been generally believed; and you will learn also with very particular pleasure that the depredations of the Danish privateers have been discontinued since my arrival. I have prepared lists and statements with a view to place the whole matter before you, in the most particular, and at the same time most distinct and simple form. These will be completed when I have received returns from Norway and from Holstein, respecting the fate of some few of the cases which occurred in the year 1809. In the mean time I can state the results to be nearly thus:

Captures in 1809,	38.
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Condemnations,	12.
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Captures in Norway in the year 1810,	36.
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Of which are pending in the high court 8, and not one has been finally condemned.

Captures in Holstein, Sleswick and the Danish islands in 1810,	68.
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Condemned,	22.
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Pending,	6.
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Convoy cases, year 1810,	18.
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Condemned,	8.
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Pending,	10.
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Total amount of captures in 1809 and 1810,	160.
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Total condemnations, 42, of which 16 were vessels which had broken the embargo or non-intercourse, or are otherwise not genuine American cases.

Pending cases, including 10 convoy cases, 24.

In this year, the only two vessels which reached these seas from the United States previous to my arrival, were taken (in the beginning of April) and condemned in Norway; two others just about the time of my arrival were carried in and are now under trial there; but since the 11th instant, upwards of forty vessels from the United States have passed through the Sound, and gone up the Baltick, and more or less are every day passing without interruption. The papers of some few have been slightly examined in the subordinate court of Elsineur. There have been tried in the lower prize court of this place, and acquitted without delay, two or three, and one of them with damages against the captors, being the first case in which damages have been given at Copenhagen. Finally, of the 14 cases (not convoy cases) which were pending before the high court on my arrival, four have been acquitted; and though the privateersmen and all concerned with them (and the ramifications of their business are immense) have made every effort to bring on condemnations, yet the tribunal, otherwise perhaps well disposed to proceed, has been steadily held back by the government; and I see the best reason to hope that at least eight of the remaining ten cases will be acquitted. As to the convoy cases my confidence is not so strong, yet even of them I do not despair; the ground on which they stand I am aware is not perfectly solid, yet I did not feel myself authorized to abandon them, and therefore have taken up an argument, which may be difficult, but which I shall go as far as possible in maintaining.

I have had several interviews with Mr. de Rosenkrantz subsequent to that last mentioned, and have acquired additional reasons to hope for the king's perseverance in the change of system which has so happily taken place, but he discourages any expectation of indemnification for the injuries sustained by our commerce under that which now appears to be relinquished. Yesterday he told me very explicitly that against the definitive decisions of the high court I must not hope for any redress; he trusted that for the future we should not have any cause to complain, but

for the past there was no remedy. I thought it not opportune to enter much into the matter at that time, and therefore contented myself with some general protestations against his doctrines.

I cannot close this letter without acknowledging the very great services of Mr. Isaachson, our consul at Christian-sand ; you will observe, sir, in the lists which I shall send to you, that of thirty-six vessels carried into the ports of Norway in the year 1810, only four were condemned in the inferior courts of that district ; this has been wholly owing to the unwearied exertions of Mr. Isaachson. He found our people in the most distressed situation ; entirely friendless, in the hands of, surrounded by, and ready to be sacrificed to the rapacity of, the privateersmen and their connections ; he volunteered in their service, he boldly opposed himself to the host of their oppressors ; he made each man's cause his own ; he provided for every man's wants ; in short, his intrepidity and independence, and disinterestedness of character, his constant zeal and industry, saved them from ruin, and with gratitude very honourable to themselves, they never cease to praise him.

With the most perfect respect, &c. &c.

GEORGE W. ERVING.

To the Hon. Secretary of State.

(A.)

Mr. Erving to Mr. de Rosenkrantz. Copenhagen, June 6, 1811.

SIR,—It was under the fullest conviction and the strongest sense of the injustice which has prevailed in the sentences of the Danish tribunals on cases of American capture, as well as an anxiety immediately to arrest the course of those excesses on the part of the privateers too much countenanced by such decisions, which are laying waste the property of American citizens, that I ventured on the 31st ult. and on the 2d instant, to request that the proceedings of the tribunals should be suspended, until having had the honour of presenting my credentials to his majesty, I should be enabled to enter into regular communication with your excellency.

In this first formal address to you upon the subject of the reclamations with which I am charged, it is incumbent upon me to express the extreme surprise and concern with which my government has seen the property of its innocent citizens, whilst employed in fair and legal commerce, ravaged by the cruisers of a nation between which and the United States the most perfect harmony has always hitherto subsisted, against which they have never heretofore found any cause of dispute or any ground of offence, and to which they felt themselves attached not merely by the ordinary ties of reciprocal good offices, but by a common interest in the defence and preservation of those neutral rights, which have so much contributed to the political importance of Denmark, by which her prosperity has been so greatly promoted, and which formerly foremost amongst nations she has so magnanimously and successfully contended for. But at the same time that I make this reflection so necessary and so obvious, I must also say, that the President retains an entire confidence in the personal good dispositions of his majesty, in his steady adherence to those great and liberal principles and to those just political views which so eminently distinguish his character, and the President assures himself that it is only necessary that his majesty should be made acquainted with the nature and extent of the injuries which the rights of the United States, as a neutral nation, and the property of their citizens, have suffered and are still exposed to, to induce him to apply an immediate and an adequate remedy to the evils complained of. His majesty on his part cannot fail to feel that confidence in the correct views and honourable intentions of the United States, which their uniform conduct in all their negotiations and transactions with other powers has so justly entitled them to; nor can he be indifferent when the friendly relations and mutual good dispositions which have hitherto so invariably subsisted between the two countries, and which it is so much the interest of each to maintain, are in question.

Animated by the most just and friendly dispositions, the American government, whilst it resists all aggressions on its neutral rights, and will never cease to oppose all violations of the publick law which may offend them, solicitously avoids any interference with the rights of others, nor will

it admit, under cover of its name and authority, any practices which may have that tendency ; it has therefore seen with the most indignant sensibility various instances of the prostitution of its flag by unprincipled adventurers in Europe, and I have it in express command to assure his majesty of its determination to discountenance by all practicable means such proceedings, and of its sincere disposition to co-operate with his majesty in detecting and punishing all similar frauds and impostures.

Your excellency will perceive in the frankness of these observations, and in the loyalty of this declaration, the true character of the American government ; they will also I trust strengthen my title to that confidence on the part of his majesty which it is at once my duty and my desire to merit.

To carry into effect this twofold purpose of my government ; to protect the property of its citizens, and to cast off from any reliance on its protection, those spurious and fraudulent cases, (if any such actually exist) which have injured the character of the American trade and jeopardized the interests of American citizens, I will enter into candid explanations with your excellency upon all the questions which may arise on the cases now pending ; so as to establish the bona fide character of the vessels under adjudication, and thus remove from before his majesty every obstacle to that course of justice which he is always desirous to observe, and to a manifestation of the amicable and conciliatory feelings towards the United States which it is confided prevail in his mind.

I have the honour herewith to transmit to your excellency two lists, containing together twenty-eight cases of American capture, being those now actually pending before the supreme court of admiralty on appeal, or waiting for his majesty's decision. The list No. 1, comprising twelve of the whole number, are "convoy cases," that is, cases in which no question has been raised as to the genuine character of the vessels, but wherein the decision rests upon the clause "d," of the 11th article of the royal instructions of March 10th, 1810, declaring as a cause of condemnation—"the making use of English convoy." I stated to your excellency in conversation, as well as in the note which I took the liberty of addressing to you on the 2d

instant, that it would be my duty to object to the principle assumed in that declaration. I trust that I shall be able to show you that it is entirely novel, that it has not any foundation in public law, and that it has not even such sanction as might be supposed derivable from the practice of other nations. Certainly much effort will not be necessary to prove that it is entirely repugnant to the broad ground of neutral right, formerly occupied and firmly maintained by Denmark herself; but upon this point I propose forthwith to address to your excellency a separate note; in the present, I will confine myself to observations on the cases (16 in number) mentioned in the list No. 2.

With respect to the "Egeria," captain Law, I send to your excellency a separate note in reply to that with which you honoured me on the 2d instant. That case must now stand so perfectly clear, that I am sure I need not trouble you with any additional remark on it.

In the two cases, viz. the "Nimrod" and "Richmond," the sole objection made is to the French certificates of origin which they had on board; these are presumed to be forgeries, upon a supposition that at the time they bear date, the French consuls in the United States had ceased to issue such certificates. Now the cases must be relieved from that objection, and the question which has been raised upon French certificates of origin be put at rest for ever, by the facts which appear in the correspondence between the Secretary of State of the United States and general Turreau the French minister, copy of which I have herewith the honour to enclose [No. 3.] Your excellency will observe that in general Turreau's letter of December 12th, replying to the Secretary's letter of November 28th, it is expressly and unequivocally stated that the French consuls in America "had always delivered certificates of origin to American vessels for the ports of France," and had also "*delivered them to vessels destined to neutral or allied ports*" by the authority of the French government; and that it was only by the United States ship "Hornet," which arrived in America on the 13th of November, 1810, that the French consuls received orders to discontinue the granting of such certificates to vessels bound to other ports than those of France. Your excellency will also perceive in the Secretary of State's reply of December 18th, how

important this explanation was deemed by the President in its application to the vessels of the United States taken by Danish cruisers upon the ground of their having on board such certificates.

Of the thirteen remaining cases in the list No. 2, eight have been acquitted in the subordinate courts of Norway and at Flensburg, and are now depending in the high court on the appeals of the captors ; and five have been condemned in the subordinate courts and are now depending in the high court on the appeals of the American masters.

I annex to this note a summary of each class (A and B,) showing the nature of the questions and objections which have arisen upon the several cases, and I do confide, that if your excellency will be pleased to lay it before the king, that his majesty will become immediately sensible to the undue proceedings of his tribunals, and will readily apply his royal authority to administer prompt and efficacious redress for the injuries and vexations which the commerce of the United States and its citizens are suffering.

I can only add, that in all cases where any doubt shall arise respecting the authenticity of American documents, I have it fully in my power to establish the truth : and I beg leave to re-assure your excellency that on this point, as on every other, you shall not experience any proceedings on my part, which will not conform to the strict honour and good faith, to the just and liberal sentiments which characterize, and to the friendly and conciliatory dispositions towards his majesty which influence the government which I have the honour to represent.

I offer to your excellency, assurances of the very distinguished respect and consideration with which I am always,
&c.

G. W. ERVING.

To Mr. de Rosenkrantz.

(B.)

Mr. Erving to M. de Rosenkrantz. Copenhagen, June 7, 1811.

SIR,—With my note of yesterday, I transmitted to your excellency a list [No. 1.] of the “convoy cases,” twelve in number: the two last in that list are not depending on appeal before the high court, as is mentioned in a memorandum opposite to their names; the first eight vessels of the remaining ten were bound immediately from Petersburg and Cronstadt to the United States; they had all paid their Sound dues, and several of them had been examined before the Danish marine tribunals on entering the Baltick—and they were all arrested in going out by a British force, and compelled to join convoy. When that convoy was attacked by his majesty’s gun brigs, the Americans, not conscious of any illegality in the nature of their voyages, or of any irregularity in their own conduct, made not any efforts to escape: they were captured and brought into port. No question has been made as to the genuine American character of the vessels in question, but they have been condemned under the authority of the article “d” in the 11th clause of his majesty’s instructions for privateers, issued on the 10th of March, 1810, which declares to be good prize “all vessels which have made use of British convoy, either in the Atlantick or the Baltick.” At the time of this declaration, these vessels were in Russia, on the point of sailing, and wholly ignorant of it.

This is a brief history of the “convoy cases.” It is now my duty to protest against the principle, assumed in the instruction referred to, upon which they have been condemned. I shall endeavour to show to your excellency, that it is wholly new; not founded in, or supported by, any reasoning to be derived from the law of nations—not even countenanced by precedents—and as wholly repugnant to the doctrines heretofore held by Denmark itself, as it is to the rights and to the interests of the United States.

That the belligerent has a right to ascertain the neutrality of vessels which he may meet with at sea, and therefore, under certain suspicious circumstances, to bring such

vessels into port for examination, I am not disposed to deny : it may also be allowed that the being found under enemy's convoy does afford such reasonable ground of suspicion, against the vessels so found, as to authorize their being sent into port for examination. But this is the full extent of the belligerent right on this point : the examination had, and the vessels being found bona fide neutral, must be acquitted. To say that the neutral shall be condemned on the *mere fact* that he was found under enemy's convoy, is to impose upon him a necessity of sailing without protection even against his own separate enemies ; for the case might well happen, indeed has happened, that though neutral with regard to the belligerent powers, he has had an enemy against whom either of the belligerents was disposed to protect him. Of such protection the American commerce has often availed itself, during the war between the United States and the Barbary powers ; nor was it ever supposed by either of the great belligerent powers, that such commerce, so protected by its enemy, had thus become liable to capture and confiscation. The case might also occur, that of two allied belligerent powers, a third power should be enemy as to one and neutral as to the other : in that case, his seeking the protection of the common enemy of these allied powers, against that of them to which he was enemy, could not subject him to capture and confiscation by the other allied power, with respect to which he was neutral ; his right in either of these and in all cases, to protect himself against his enemy by availing himself of whatever convoy offers, is unquestionable. I state these arguments against the *broad ground* taken in the royal instructions above quoted. But it will be said that the belligerent having also an unquestionable right to ascertain the neutrality of vessels, and belligerent rights being paramount to neutral rights where the two happen to be in collision, hence the attempt of the neutral to deprive the belligerent of his right, by putting himself under convoy, forms of itself a ground of capture and confiscation. To this I answer,

Firstly : That the belligerent rights, where they come into collision with those of neutrals, are not to be deemed in *all cases* paramount ; and that nothing can establish such a general rule but force, which is not law or justice.

Secondly: That no presumption necessarily arises against the neutral, from the mere circumstance of his being found under enemies' convoy; but that this point will depend upon the peculiar circumstance of each case.

Thirdly: That where the belligerent and neutral rights conflict, all other circumstances being equal, the plea of necessity ought to decide the question in favour of the neutral. In the case supposed, the belligerent is seeking the mere exercise of a right, but the neutral is occupied in his self preservation.

Fourthly: Superadded to this reason in favour of the neutral right, is one springing out of the immutable principles of equity; for since, according to modern practice, the neutral has no representative in the judicature by which his cause is tried—that it is no longer an umpirage, or a court of arbitration—so his claim to a favourable leaning towards his right, in all questionable cases, is very much strengthened.

But it is also proper to inquire, whether the vessels in question did in fact put themselves under convoy with a view to avoid examination by Danish cruisers. Now it appears, in the first place, that they did not seek convoy for any purpose, but that they were forced into it. Apart, however, from that question, there were not any Danish laws or ordinances, which they knew of, subjecting them to capture; nor could they apprehend or anticipate any such; the less, as they had previously passed through the Sound, or Belt, in safety, and without convoy; hence they had not any motive to seek convoy as a protection against Danish cruisers. They had, indeed, other inducements to put themselves under convoy; the decrees of his majesty the emperor of France (since, happily for the harmony between the United States and France, repealed) were then in force: that system, working against the English orders in council, produced such a state of things with regard to the commerce of America, that scarcely one of its ships could move on the face of the ocean without being exposed, under this unfortunate co-operation of hostile systems, to capture and confiscation: hence it is not surprising if American vessels have, from time to time, been terrified into the convoy, now of one party, now of the other. But had this happened in the cases before us, yet it would

not have formed a just ground of capture and confiscation ; for, the merits or demerits of the Berlin and Milan decrees out of the question, those decrees have not been adopted by Denmark : indeed, at the time the vessels were taken, his majesty had not assumed any course, with respect to the American commerce, from which evil was to be apprehended : hence, I beg leave to repeat, that the vessels in question cannot be presumed to have sought protection under British convoy for the purpose of avoiding his cruisers. But, if the contrary had been proved, if it stood confessed that they had sought convoy against Danish cruisers ; in that case they would have been liable to capture certainly, but it is equally certain that they would not have been liable to condemnation. I must again totally deny that the rule laid down in the article of the royal instructions above cited, is supported by any principle to be found in the law, and I can confidently ask your excellency to show me any authorities in its favour. If the writers be silent on the subject, then their silence is to be construed favourably for the neutral ; it supposes that his right to sail under convoy, in all cases, is indisputable : what is not expressed, against this claim, cannot be implied ; but, I will add, that all the analogies to be drawn from the law are in favour of the neutral. In this view, the rule laid down in the instructions, by its sweeping latitude, forms its own condemnation ; for it would comprise not only vessels which might accidentally be within sight of, or at any indefinite distance from, an enemy's convoy, but vessels found in an enemy's harbour under cover of his guns. But the law says, that neutral goods so found under his forts, within his territory, or even on board his vessels at sea—which is to be as immediately and totally under his protection as is possible—that these are not liable to confiscation, but shall be restored to the neutral owners. The doctrine laid down by Grotius in the "*de jure belli ac pacis*" on this point, has never been refuted, but has, on the contrary, been adopted by subsequent writers : treaties, indeed, may have said otherwise, but treaties change not the law, they bind only the parties to them. I may equally ask your excellency to shew me examples in the practice of nations, countenancing the rule laid down in the royal order ; and I can quote, in favour of the neutral right, the example of England—a power which neither

your excellency or myself are disposed to extol for her moderation in the exercise of her belligerent rights, or for any dispositions which she has manifested favourable to those of neutrals—England herself has never gone to the extent of condemning vessels upon the mere ground of their having been taken under enemies' convoy, but she has captured them in that situation and acquitted them.

I might occupy your excellency's attention by expatiating on the conduct of Denmark in former times, by carrying back your view to a consideration of that great system of neutral rights, which she so boldly adopted and so ably supported, in the year 1780—which are again recognised in her convention with Sweden of 1794—which she has subsequently co-operated with Russia to establish, and the leading feature of which still appears in the very royal instructions on which I have been commenting: but it would be an ungrateful task, and not necessary to be undertaken, because the mere mention of the subject carries conviction to the mind on the point to which I would apply it, and because, on every other, I have already said more than enough to establish the chief position with which I began: viz. that nothing to be found in the law will authorize the condemnation of neutral property upon the mere fact of its being found under enemies' convoy, and that therefore on due proof of its neutrality, it must be acquitted.

I consider it to be a propitious circumstance, that in acting upon this very important question, his majesty's government is unembarrassed by the claims of privateersmen, and that the cases of these vessels are thus presented in the plainest form, unmixed with any extraneous matter, the captures having been made by publick ships, leaving the fullest scope to the magnanimity and justice of his majesty's disposition.

I have the honour, &c.

G. W. ERVING.

To His Excellency M. de Rosenkrantz,
First Minister of State, &c. &c. &c.

VOL. VIII.

23

(No. 1.)

LIST OF AMERICAN VESSELS

Taken in Company with the Remainder of a Fleet under Convoys of a British Gun-Brig and sent into Christiansand by Five Danish Gun-Brigs in July, 1810.

Vessels and Names.	Captains.	Where from.	Where bound.	Where owned.
Schooner Annawan,	Donaldson,	St. Petersburg,	Philadelphia,	Philadelphia.
Do. Hesper,	Cushing,	Do.	Boston,	Newburyport.
Do. Hope,	Rhee,	Do.	Providence, R. I.	Providence.
Do. Janus,	Gawn,	Do.	Newburyport,	Newburyport.
Barque Mary,	Ropes,	Do.	Salem,	Salem.
Brig Elizabeth,	Campbell,	Do.	Philadelphia,	Philadelphia.
Do. Hope,	Melk,	Do.	Mablehead,	Mablehead.
Do. Polly,	Graves,	Do.	Do.	Do.
Schooner Rebecca,	Melk,	Golthenburg,	Do.	Do.
Do. Iria,	Russell,	Do.	Salem,	Salem.
Brig Sophia,	M'Intire,	Do.	Liverpool,	These vessels are American, but the cargoes on freight supposed for English account; no appeal declared for either vessel.
Barque Eliza,	Luffkin,	Do.	Do.	

(No. 2.)

LIST OF AMERICAN CASES

Now pending before the High Court of Admiralty at Copenhagen, June 1, 1811.

Date of Capture.	Vessel and Name.	Captain.	Where owned.	Where from.	Where bound.	Where detained.
May 1810,	14, Schooner Egeria,	Law,	New York,	New York,	St. Petersburg,	Fahrsund.
June	5, Brig Minerva,	Baker,	Portland,	Portland,	Do.	Do.
	2, Schooner Oscar,	Cunningham,	Baltimore,	Baltimore,	Gothenburgh,	Heckford.
July	31, Do. Minerva Smyth,	Mann,	Philadelphia,	Philadelphia,	Kiel,	Kiel.
	Do. Fair-trader,	Craig,	Do.	Do.	Do.	Do.
August	18, Brig Ariel,	Butler,	Do.	Do.	Do.	Do.
	Schooner Resolution,	Eldridge,	New York,	New York,	Gothenburgh,	Christianssand.
	8, Brig Nimrod,	Smith,	Do.	Do.	Elsneur,	Aalborg.
	Schooner William and Jane,	Bunker,	Do.	Do.	Russia,	Callenbourg.
October,	29, Brig Richmond,	Jervis,	Philadelphia,	Philadelphia,	Gothenburgh,	Fahrsund.
	Schooner Pittsburg,	Yardley,	Do.	Do.	Do.	Heckford.
November,	Do. Maria Theresa,	Phelps,	New York,	New York,	Kiel,	Fahrsund.
December,	Do. Amiable Matilda,	Hague,	Do.	Do.	Do.	Do.
1811.	Do. Washington,	Almy,	Do.	Do.	Russia,	Callenbourg.
April	1, Brig Rachel,	Joseph,	Salem,	Boston,	Do.	Copenhagen,
	Schooner Charlotte,	Pierce,	Roston,	Do.	Stockholm,	Isle of Bomholm.

Mr. Erving to the Secretary of State. Copenhagen, July 15, 1811.

SIR,—I have the honour herewith to enclose copies of my correspondence with this government since my last communication, viz.

No. 1. Mr. de Rosenkrantz his note of June 28th in reply to mine of the 6th and 7th of June.

No. 2. My note to Mr. de Rosenkrantz, of June 30th in reply to the above.

No. 3. Mr. de Rosenkrantz, his note of July 9th in reply to mine of the 30th of June.

On the 28th of June, I waited upon the minister for the purpose of conversing with him on such part of his note of that date as respected the convoy cases, but did not obtain any thing more satisfactory than what is contained in it. On the 29th he went into the country, from whence he did not return until the morning of the 2d instant: in the mean time the cases were pressed forward in the high court, and it was determined to condemn four of them instantly, as though it were to preclude the possibility of any further remonstrance on my part. I had received an intimation of this intention on the 30th of June, and then wrote to Mr. de Rosenkrantz unofficially, hoping that he would be able to arrest the progress of the tribunal. On the 1st instant, having ascertained that intention, I again addressed him in the same way, and in terms rather more forcible; that communication, though unofficial, Mr. de Rosenkrantz, actuated by the most friendly motives, immediately sent to his majesty, yet it failed of its intended effect, and on the 2d instant four of the cases were condemned.

On receipt of the minister's last note (on the 9th,) I again waited on him and warmly remonstrated against this precipitate procedure, and the determination taken to condemn all the convoy cases without admitting any justificatory pleas; he reverted to whatever is found in his written communications to support the determination, and yet seemed to regret that it had been taken; but withal was unable to effect, and did not afford the least encouragement to hope for any modification of it; nevertheless some of these are cases of great hardship, and I have concluded

not to relax my efforts in their favour, whilst any one of them remains uncondemned.

In every other respect the position of our affairs is not unsatisfactory, the privateers are discouraged, and nearly all our vessels pass without interruption. I transmit herewith lists and statements as correct as it is possible to make them, which place in the most distinct point of view whatever has passed in relation to, and the actual state of the business with which I am charged.

With the most perfect respect and consideration, &c.

GEORGE W. ERVING.

To the Secretary of State.

No. 1.

Translation of a Note from Count Rosenkrantz to Mr. Erving. June 28, 1811.

THE undersigned, minister of state, chief of the department of foreign affairs, has laid before the king, his master, the notes which Mr. Erving, special minister from the United States of America, addressed to him on the 7th current. He is charged to assure this minister that his majesty has seen with great satisfaction, that the President of the United States recognizes the reciprocal utility of the relations which unite the two governments.

The king having always had it at heart to maintain a good understanding with the American government, would be much pained if he could be convinced that the subjects of the United States, who have carried on commerce or navigation either in the ports of his majesty or in the waters which wash the shores of his states, and in the adjoining latitudes, have had just cause to complain of the treatment which they have met with here in consequence of the privateering which his majesty has been forced to authorize by the war into which the Danish nation have been drawn by the government of Great Britain. His majesty is persuaded that the vessels captured under the flag of the United States, have not been brought into his ports unless there was reason to suppose that the vessel was not duly authorized to carry that flag, or that she was engaged in an illicit trade. The ordinance as to privateering, which was published on the 28th of March of the last year, pre-

scribed to those fitting out privateers, the conduct they were to pursue, and it also fixed the responsibility to which they were subjected. The high court of admiralty watches over the execution of this ordinance, which has met the approbation of all the governments of Europe.

If there have been many vessels under the American flag brought in, it is because there have been a great number of them furnished with false papers, that evidently carried on a simulated and justly prohibited commerce. It was naturally very difficult for the courts to distinguish at first, the navigation which was fair, and in rule (*en règle*) from that which was devoted to the service of the enemy of Denmark. The conduct of the navigators who followed the latter compromised those who had nothing to reproach themselves with; but in every case where the high court of admiralty discovered that the papers on board proved that the vessel was really American, and that the captain had not made an improper use of them, to cover the property of the enemy, passing it off as American, the vessels and the cargoes have been released. There was one cause of a seizure and of process against American vessels, which in a certain degree applied to those that produced false papers, or to those in whose documents there were irregularities. This was the certificates of origin granted to American vessels by the French consuls residing in the ports of the United States. The French government caused it to be officially declared to the court of Copenhagen, on the 22d of September, that the consuls of France would not grant any more certificates of origin, and that every American vessel that had them on board, had so far false papers, and was to be treated accordingly. Taking into view the strict and happy union which subsisted between the king and his majesty the emperor of the French, his majesty could not but pay attention to this communication. He therefore ordered that the certificates of origin, which had been thus declared to be all false, should be considered by the prize courts as a false document, which would authorize the condemnation of the vessel that had them on board. The undersigned having been afterwards informed by the charge des affaires of his majesty in the United States, and more recently by Mr. Erving, that the consuls of France in the United States had not received the order of their

government to abstain from granting these certificates, until the 13th of November of last year, by the *Hornet*, and that they had not ceased granting them until after that period, and having reported this to his majesty, he immediately directed that the certificates in question should no longer be injurious to the vessels that were furnished with them, provided that these certificates bore date prior to the 13th of November of last year.

The king has not confined himself to giving this proof of his attention to the remonstrance made to him on the part of the government of the United States. His majesty has, also, having in view the representations made by the special minister of the United States, just ordered that the cases of the following vessels, under the American flag, brought into the ports of his dominion, viz.

Minerva,	-	-	-	-	Captain Baker,
Resolution,	-	-	-	-	Eldridge,
Pittsburg,	-	-	-	-	Yardsley,
Maria Theresa,	-	-	-	-	Phelps,
Amiable Matilda,	-	-	-	-	Hague,
Minerva,	-	-	-	-	Smith,

should be reported to him by his chancery before the definitive sentence was pronounced, in case the supreme court of admiralty should find that the charges alleged by the captors, were so well founded as to make it probable that the sentence would be unfavourable to the vessels. Mr. Erving will be pleased to observe, that these are vessels acquitted in the first instance by the prize courts, and in whose cases appeals have been made by the captors. His majesty has also determined to cause to be reported to him in the same manner the cases of the following vessels:

Oscar,	-	-	-	-	Captain Cunningham,
William and Jane,	-	-	-	-	Bunker,
Washington,	-	-	-	-	Almy,
Rachel,	-	-	-	-	Joseph,
Charlotte,	-	-	-	-	Pierce,

in which the masters of the vessels have had recourse to an appeal to the decision of the supreme court. The undersigned flatters himself that Mr. Erving will find in this compliance of the king his master, an evident proof of the desire of his majesty to see that the most exact justice

may be observed towards the American vessels brought into the Danish ports.

His majesty, who has seen with great satisfaction that the President of the United States properly appreciates the sentiments of justice and equity which animate him, feels gratified in manifesting to him, that he desires to preserve and to cultivate on his part, the relations of good understanding and of amity, which have always subsisted between the Danish government and that of the United States of America. It is enjoined on the undersigned to charge Mr. Erying with assuring his government that the intentions of the king, his master, are invariable in this respect.

In regard to vessels under the American flag, arrested at sea by Danish cruisers, and which were found under the convoy of British ships of war, Mr. Erying will permit the undersigned to have the honour of observing to him, that when the fact is fully proven, the searching after, and the use made of the protection of the enemies of Denmark, in the seas which wash the shores of his majesty's dominions, or in those which environ them, cannot be viewed by the Danish government, but as having taken from these vessels their original character of neutrals. But the king, not having been willing, that the courts should attribute to vessels under the American flag, the having been placed (*de s'être mis*) under the protection of his enemies, unless the fact was proven, has very recently directed, that proofs the most evident, be required to establish the fact, that a vessel under the American flag had been (*ait été*) under English convoy. The undersigned cannot but urge in favour of the principle established by the 11th article of the ordinance for privateering, the argument that he who causes himself to be protected by that act, ranges himself on the side of the protector, and thus puts himself in opposition to the enemy of the protector, and evidently renounces the advantages attached to the character of friend to him, against whom he seeks the protection. If Denmark should abandon this principle, the navigators of all nations would find their account in carrying on the commerce of Great Britain under the protection of English ships of war, without running any risk. We every day see that this is done, the Danish government not being able to place in the way of it sufficient obstacles. The

undersigned will add a single observation which will serve to convince Mr. Erving, that this principle is, in the view of his majesty, as just as it is invariable. It is that every Danish vessel which should make use of English convoy is condemned, if she is convicted of it, in like manner as a foreign vessel. It is but too well known that in all times, during maritime wars, neutral navigation has been exposed to embarrassments and delays. The Danish navigation has had experience of it in its time. It is, therefore, that the king has established rules for privateering, which place the navigation truly neutral, under cover from vexations. His majesty would equally have wished entirely to have prevented captured vessels from experiencing delays of any importance, when it was found that they had their papers on board in order, (*en règle*) and that they had not improperly used them to carry on a simulated commerce, on account of the enemy of Denmark. He is convinced that he has taken for this purpose all the measures in his power, and he is resolved carefully to watch over their execution. These measures and the will (*volonté*) of the king, offer sure guaranties to the commerce of the United States, that the vessels under their flag will be able to navigate in the seas and waters visited by the Danish cruisers, without any risk of being molested by them or brought in, if their papers are in order (*en règle*) and there is no reason to suppose that they have been improperly used. The vessel which is destined to carry into any port whatever, produce and merchandise, which are not admitted into that port, according to the laws of the state to which it belongs, will not be considered as in rule (*en règle*) and the navigators who may aim at employing their vessels in this way, will only have to blame themselves if their enterprise leads to their injury.

The undersigned, in acquitting himself, as he has just done, of the orders of his sovereign, cannot deprive himself of the honour of again reminding Mr. Erving that the navigation and the commerce of the citizens of the United States, found a reception and an outlet for the productions of their country, in the ports under the dominion of the king of Denmark, at a time when they did not enjoy the same advantages in the ports of the greater part of the states of Europe. This circumstance will sufficiently

prove to the American government, that that of Denmark is fully aware of the reciprocal utility of the relations of commerce and of good understanding between the two nations.

The undersigned has the honour of renewing to Mr. Erving, the assurance of his high consideration.

ROSENKRANTZ,

G. W. Erving, Esq. &c.

No. 2.

Mr. Erving to Mr. de Rosenkrantz. Copenhagen, June 30, 1811.

The undersigned, special minister of the United States of America, has received the note which his excellency M. de Rosenkrantz, first minister of state and chief of the department of foreign affairs, was pleased to address to him on the 28th instant, in reply to the representations made by the undersigned on the 6th and 7th instant, respecting the reclamations with which he is charged. He shall immediately transmit his excellency's said note to the government of the United States, and is persuaded that the President will receive with great satisfaction, the reciprocation which his majesty has therein offered of the friendly sentiments which the undersigned was ordered to express : these dispositions and the just and liberal views of his majesty, with regard to the neutral commerce of the United States as declared in his excellency's note, since they leave not the least doubt but that his majesty has been wholly unaware of the great injuries which that commerce has lately sustained within his dominions, afford to the undersigned the happy presage of a favourable termination to the business with which he is intrusted, and a sure pledge that the harmony which has hitherto always subsisted between the two governments, will still be maintained in its full extent and perfection.

Thus assured of meeting on the part of his majesty's government with no dispositions but those which are of the most just and friendly character, it is with more than ordinary pleasure that the undersigned proceeds in the performance of his duty.

His excellency, the minister of state, after showing the causes which have occasioned the capture of so many vessels under the American flag, observes, that in all cases where the supreme tribunal of admiralty has found that the papers on board such vessels prove their American character, and where their neutrality has not been abused by any attempt to cover enemy's property under simulated papers, both vessels and cargoes have been released. Such is undoubtedly the impression on the mind of his majesty, who has been convinced that the inquiries pointed out by his instructions have been conducted with all the impartiality by which those instructions were dictated: but it can be shown in a multiplicity of cases that the high court has entered into matter entirely irrelevant to the object of the instructions; that it has given weight to evidence entirely inadmissible, and has resorted to pretexts for condemnation entirely insufficient: it shall be shown to his majesty, that, thus contrary to his royal intention, a great mass of American property has been unjustly condemned in the high court—whether by a misconstruction or mal-application of his majesty's regulations, the undersigned will not undertake to say—perhaps it may not be important to inquire, since, be the source of this evil what it may, to the royal sense of justice only the injured now have to look, and they look with confidence for redress. The details upon this subject will be voluminous: the undersigned will here point only to one, and that a recent decision (being the first which presents itself,) by way of exemplification.

In the case of the American ship "Swift, Champlin." In the high court on the 11th March, 1811, this ship was condemned on an allegation that captain Champlin had thrown some papers overboard; which allegation had no better or other support than the oaths of seven of the privateer's men who captured her. It is to be observed on this sentence,

Firstly, as to the alleged fact. The royal instructions of March, 1810, after stating what shall be deemed causes of condemnation, in the 12th section states what shall be cause of suspicion, and subject vessels to further examination; and in the article "e" specifies the throwing overboard or destroying of papers. This throwing overboard of papers then, constitutes ground of suspicion only, and

authorizes further examination with a view to ascertain whether that fact can implicate the neutral character of the vessel. Now, in the course of the further examination on this trial, the neutrality of the ship and the fairness of her voyage were fully established; the alleged circumstance with respect to her papers therefore remained naked, and unsupported by any sort of ground or pretext for condemnation—and yet she was condemned!!

Secondly, as to the evidence. The American master objected, that it was contrary to all the principles of justice and law to admit the evidence of privateersmen, who were parties interested in his condemnation; but the court decided that they were not interested, and that their evidence must be admitted! and that the evidence of the crew of the American ship should not be admitted to rebut it! The American master then went on to show that the witnesses were interested, and produced a contract made between them and the owners of the privateer (the authenticity of which was acknowledged) by which it appeared that the equipage of the privateer were to receive half of the next prize which they might take: still the court determined that they were not interested in the condemnation of this ship, and that their evidence should be admitted!! The American master then went on to prove that it was impossible they should have sworn truly: they had declared that the papers thrown overboard were of the size of about six inches square, and had been passed through a certain opening in the after-part of the ship; the American master proved, by the examination and declaration of two Danish masters, that the privateersmen could not have seen them dropped into the water as they had stated; and farther, that the hole pointed out was not large enough for them so to have been passed through: but neither did these proofs produce any effect in favour of the American; he was predestined to condemnation. The court had no disposition to reject the evidence of the privateersmen, though the same privateersmen had produced two other men to swear that they had seen this same ship "Swift" at Liverpool—and captain Champlin proved that, one day after the day in which this evidence stated that he was at Liverpool, he spoke his majesty's gun-brig the "Sea-Gull!"

The undersigned trusts that any comment whatever, upon such a sentence, would be entirely superfluous—a sentence in direct violation of his majesty's instructions. He will only add, that the property *thus condemned* is valued at one hundred thousand Spanish dollars! The explanation which the minister of state gives, as to the objection made by the tribunals to French certificates of origin, and the order which his majesty has now been pleased to issue on that subject, though applying only to two of the cases, viz. "Nimrod" and "Richmond," named in the lists transmitted to his excellency on the 6th inst. and both lately acquitted, cannot fail of being satisfactory: but, observing therein that the notification made by the French government was not till the 22d of September, the undersigned cannot refrain from again adverting to the conduct of the high court, which, in a sentence given on the 22d of December, in the case of the "Agent," Row, justified the *capture* of that ship in the month of *June*, upon the ground that she had with her papers a French certificate of origin; and upon that same ground, *and upon that only*, decreed that a sum of 500 rix-dollars should be paid to the captors! Precisely the same decision was given, about the same time, in the case of the "Julian," Abbott.

In the order which his majesty has now issued with respect to the eleven cases pending in the high court, and as specified in the minister of state's note, the undersigned recognises the determination of his majesty to insure justice to the American claims; and he has the honour to assure his excellency the minister, that the President will receive with peculiar satisfaction the declaration of his majesty accompanying this act, and charging the undersigned to communicate to his government his majesty's invariable disposition to cultivate the good intelligence and friendly intercourse which ought always to subsist between the two countries.

When on every other point there is the pleasing prospect of a perfect accord, it is with regret that the undersigned feels the necessity imposed on him of differing in opinion with his excellency M. de Rosenkrantz on the subject of the convoy cases, and of contesting some of the doctrines which the minister has laid down as applicable to those cases.

His excellency has not thought proper to reply to the reasoning upon which the undersigned based his reclamation, which therefore remains in its entire force ; nor has he produced any thing which can be deemed satisfactory in support of the principle assumed in the royal instruction to which that reasoning has been applied. The minister of state has produced in favour of the principle in question the single argument, that he who puts himself under the protection of another, does thereby take side with his protector, and renounces the advantages which belong to the quality of friend as to him against whom he seeks protection. In vain are the books examined to discover the source from which this argument is drawn ; in vain are history and the records of diplomacy resorted to, for authority or for any countenance given to the doctrine which it embraces : but these books and these records, have they lost their title to respect ? Have they become a dead letter ? His majesty certainly does not assume to act on principles unknown to them ; to originate a practice at once undefined in its limits and rigorous in its character beyond all precedent ; in hostility also with the ancient doctrines of Denmark, and a stranger to all her maritime codes : so much a stranger as that it is not found even in the royal instructions issued on the 14th September, 1807. His excellency the minister of state supposes an acquiescence in this new rule upon the consideration that it is applied to Danish ships as well as to strangers. Certainly the United States will never dispute the equity or propriety of any law emanating from his majesty's authority and applied to his own subjects ; but it is equally certain that they found their rights upon the publick law only, and cannot consent to place them at the disposition of any partial authority, or to limit them by the convenience of the belligerent powers. It is not readily conceived how Danish ships or ships of the allies of Denmark, being subject to the capture of the enemy, can be found under his convoy ; vessels carrying such flags, and so found, cannot but be enemy's property ; but if by whatever means his majesty's subjects do put themselves under enemy's convoy, they are doubtless guilty of a high crime, and richly merit all the punishment which his laws inflict ; but is the same rule to be applied to the property and to the citizens of a neutral and independent power ?

Thus much the undersigned has found it his duty to say in addition to what has before been stated and remains unanswered respecting the principle assumed in the royal instruction of March, 1810: but he finds one part of the minister's note which as he apprehends goes much beyond that instruction and which would preclude the neutral from any kind of justification for being found under enemy's convoy.

It were a gross dereliction of the interests of the United States should the undersigned leave the least room for his excellency to suppose that the American government will accede to the fiction propounded by his excellency, viz. "that neutral vessels found under enemy's convoy *have eo facto lost their original quality of neutrals.*" This idea was certainly more fully and distinctly expressed in conversation, and seeing that there are parts of his excellency's note which favour a different conclusion, he eagerly seizes the hope that it is not really intended to carry the doctrine to such an extent; yet as in a matter of such importance nothing should remain equivocal, the undersigned desirous of laying it before the President in the most distinct manner, requests that he may be favoured with an explanation as to whatever is susceptible of misconstruction.

His excellency, pursuing the idea above cited in mentioning the instructions which his majesty has now given to his tribunals to direct their examinations on American vessels found under enemy's convoy, says "que les preuves les plus evidentes seront requises pour prouver qu'un navire sous pavillon Americain *ait été* sous convoi Anglois." Yet it is hoped that the words *ait été* are not intended to be connected with what is above quoted, but rather that they are to be governed by the sense of the words "s'être mis sous la protection" found in the same sentence; by the words "la recherche et l'usage faites" in the paragraph preceding; by the words "se fait protéger," which will bear the same construction in the paragraph following; and finally, by the words in the article "d" clause 11th, of the royal instructions of March, 1810, construed "using convoy," which must be supposed to mean a voluntary use of convoy, and cannot intend vessels which have been forced into or have accidentally found themselves in convoy. For, to condemn vessels under such unfortunate cir-

cumstances! is that the course of a power friendly to the neutral? This reflection so strengthens the above construction of the words used in the royal order of March 10th, as not to leave a possibility of supposing that his majesty intended that such innocent vessels should be affected by it.

The undersigned cannot conclude this note without expressing his full confidence that the friendly dispositions professed by his majesty will dispose him so to regulate the conduct of his tribunals, upon the convoy cases as to satisfy the just claims of the United States, or without assuring his excellency the minister of state in reply to the last observation in his note, that the American government is also fully sensible to the value of the commercial and friendly relations which have always subsisted between the two countries.

No. 3.

Count Rosenkrantz to Mr. Erving. Copenhagen, July 9, 1811.

THE undersigned, minister of state and chief of the department of foreign affairs, has seen with very particular satisfaction from the note of Mr. Erving, minister of the United States of America, under date of the 30th ultimo, that he was not disappointed in his expectation of finding that Mr. Erving would acknowledge the sentiments of justice and equity which animate the king his master, as well as the desire of his majesty to maintain a good understanding with the government of the United States. But it is not without pain that the same minister of state sees that Mr. Erving remonstrates against the sentences already definitively pronounced. It is with the same sentiment that the undersigned finds himself charged by the orders of his sovereign to repeat to the minister of the United States, that his majesty cannot make any general change in the regulations of the ordinance for privateering, issued on the 28th March of last year, and in consequence none in the 11th, which under the letter "d" declares that neutral vessels, that make use of the convoy or of the protection of the vessels of war of Great Britain, are to be considered as good prize if the Danish privateers

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Remarks.

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December 28th, 1809.

18th,

28th,

18th,

November 20th,

20th,

December 28th,

in both courts.

Americans.

away, in the year 1810.

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Vess	Remarks.
1 Eges	and 200 dollars, captors appealed.
2 Vern	
3 Port	dollars.
4 Osca	
5 Wills	—captors appealed and compromised.
6 Trit	rded.
7 Colu	led, compromised.
8 Sarab.	
9 Zench	lugger, papers sent to Paris.
10 Resc	—captors appealed.
11 Marj	appealed, cleared.
12 Cath	dolls.—captors appealed, cleared again, paying 1000 dolls.
13 Elle	ealed, cleared.
14 Min	
15 Syn	
16 Ann	her cargo.
17 Ages	and 1000 dollars—captors appealed, cleared again.
18 Nans	—captors appealed, compromised.
19 Julia	leared, fined 1000 dollars and all expenses.
20 Hib	es and 200 dollars to captors.
21 Cyg	is and 150 dollars to captors.
22 Nan	
23 Han	appealed, cleared.
24 Cort	s and 200 dollars to captors.
25 Jose	do.
26 Rich	do.
27 Aur	do.
28 Ant	arts, paying costs.
29 Poll	50 dollars to captors.
30 Lyd	
31 Edw	
32 Bets.	
33 Wills.	
34 Amb	ending.
35 Mar	do.
36 Pitts	do.
	Aurcourts.
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N. belief that they were not genuine American cases.
 captors appealed

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List of American Vessels captured and

List

<i>Date of Sentence.</i>	<i>Vessels.</i>	<i>Masters.</i>	<i>Where.</i>
April	8, Rebecca,	Nimmo,	Balti
July	11, Commerce,	Otis,	
	29, Harriett,	Weeks,	Port of the court.
August	2, Hebe,	Ogle,	
	4, Henry,	Harris,	Salen
	14, Spencer,	McCarthy,	money, and
	21, Ann Louisa,	Roche,	
	25, Helvetius,	Baush,	Philases of court
	26, Annawan,	Donaldson,	
	28, Aurora,	Marsters,	Salen
	Hesper,	Cushing,	
	30, Florida,	Stubb,	
	31, Antelope,	Hopkins,	Bosto
October	2, James,	Coffin,	
	9, Two Friends,	Livingston,	Char
	28, Concordia,	Johnson,	
November	25, Moses Gill,	M'Com,	
	Alexander,	Hodge,	
	Mary Ann,	Martin,	
	Washington,	Story,	
		Swain,	
	David Gelston,	Borth,	
	Mary,	Hale,	
	Hetty,	Shore,	
	Susannah,	Handy,	

Of the

List of American Vessels Captured and 0.

<i>Vessels' Names.</i>	<i>Masters.</i>	<i>Where.</i>
1 Orion,	M'Lelland,	N
2 Imogene,	Jewett,	V
3 Mary Pilke,	Myer,	P
4 Jason,	Allen,	S
5 Gosport,	Watger,	N
6 Lydia,	Crabtree,	C
7 Liberty,	Burtwell,	P
8 Othello,	Seaman,	

<i>Vessels' Names.</i>	<i>Masters.</i>	<i>Where.</i>
9 Argo,	Wheelwright,	Norfolk,
10 Pallas,	Head or Keith,	New York,
11 Nereid,	Squires,	Charleston,
12 Mary,	Crayeroft,	Philadelp
13 Liveoak,	Yarrell,	Scarboro
14 Drummond,	Butler,	Philadelp
15 Swift,	Champlin,	New York
16 Columbia,	Sullivan,	Kennebu
17 Mary,	Peterkin,	Baltimore
18 Franklin,	Adams,	Portland,
19 Nonesuch,	Lively,	Baltimore
20 Herald,	Barron,	Petersbur
21 Georgia Planter,	Brown,	do.
22 Ganges,	Tracy,	Boston,
23 Devotion,	Millar,	New York
24 Experiment,	Hill,	Baltimore
25 Hampton,	Holmes,	Newport,
26 Waltner,	Lee,	New York
27 Mars,	Balch,	New Har
28 Cremer,	Swarcy,	Boston,
29 Charleston and Liverpool Packet,	Clark,	do.
30 Unicorn,	Frazier,	Baltimore
31 Asia,	Ormsby,	Providence
32 Rambler,	Adams,	Rhode Is
33 Fisher Ames,	Greenland,	Boston,
34 Statira,	Palmer,	New York
35 Catharine Jane,	Darling,	do.
36 American Hero,	Leach,	Boston,
37 Alknomar,	Irish,	New York
38 Magnet,	Swett,	Portsmou
39 Swift,	Allen,	Providence
40 Bona,	Bishop,	Baltimore
41 Rover,	Groves,	Boston,
42 Betsey,	Wilson,	Salem,
43 Rising Sun,	Myer,	Baltimore
44 Express,	Thomas,	Boston,
45 Lion,	Bainbridge,	Philadelp
46 Washington,	Dennis,	Marblehe
47 Olive Branch,	Howland,	New Bed
48 Fanny Sewell,	Gale,	New York
49 Dolphin,	Latham,	do.
50 Nimrod,	Smith,	do.
51 Susannah,	Cassan,	Philadelp
52 Industry,	White,	do.
53 Dolphin,	Brevoor,	do.
54 Philip,	Williams,	Baltimore
55 William and Jane,	Bunker,	New York
56 Delaware,	Gill,	do.
57 William and Henry,	Seabury,	Newport,

	Sentence of the Prize Court.	Sentence of Admiralty.
58 H	Cleared,	No appeal.
59 Q	Condemned,	do.
60 Q	do.	Condemned.
61 H	do.	No appeal.
62 H	Cleared,	do.
63 V	Condemned,	Condemned.
64 O	Cleared,	No appeal.
65 W	Condemned,	Pending.
66 F	Cleared,	do.
67 M	do.	do.
68 A	do.	do.

Not
No. 60 50 "Nimrod, Smith," 55 "William and Jane, Bunker,"
33, an 68 "Fair Trader, Craig," 67 "Minerva Smyth, Mann,"
Qu? 65 "Washington, Almy," 68 "Ariel, Butler."
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N. B. The Canton was bound from the United States to Petersburg, and I believe to have been the property of Samuel G. Arnold and Joseph Martin of Providence. She was taken under British convoy.

List of rig and sent into Christiansand by five Danish Gtn
15, 1811.]

	Cargo.	Remarks.
Ship	cloth, hemp, iron,	
do.	do.	
do.	do.	
do.	do.	Condemned July 9, 1811.
Barque	do.	Condemned July 2, 1811.
Brig	do.	
do.	do.	Do. do.
do.	do.	
Schooner	Sundries,	Do. do.
do.	do.	Do. do.
Brig		These vessels American, but cargoes on freight supposed for English account. No appeals.
Barque		
		Condemned. No appeals, they being as is supposed under circumstances of an unfavourable kind.
		Appealed, condemned.

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Nimrod, Smith,
William and Jane, Bunker,
Fair Trader, Craig,

Annawan, Donaldson,	Hesper, Cushing,
Hope, Rhea,	Janus, Gawn,
Mary, Ropes,	Elizabeth, Campbell,
Hope, Meik,	Polly, Graves,
Rebecca, Meik,	Iris, Russell.

Value of Invoice.	Date of Capture.	Carried into	Date of condemnation	Remarks.
	1809.		1809.	
Jan, 000	May 4.	Egvog,	Dec. 18.	} Condemned. These are of the Norway list for 1809.
Sub, 000	April 30.	Farhsund,	28.	
Pac, 000	June 16.	Christiansand,	18.	
Con				
, 000	19.	Farhsund,		} Cond. Norway extra list for 1809.
Top, 000	Aug. 8.	Fleckefjord,		
Ind	20.	Christiansand,		
Ada				} Cond. Of the Norway list, 1810.
Pigt		Fleckefjord,		
Aur		do.		
Vol		Copenhagen,		} Cond. These are of the Denmark list for 1810. N. B. Including three in which no appeal was made by the masters.
Imd		do.		
Mar		do.		
Lyd		do.		
Arg		do.		
Ner		do.		
Dru		do.		
Swil		do.		
Fra		do.		
Her		do.		
Geo		do.		
Gan		do.		
Han		do.		
Cret		do.		
Fish		do.		
Cath		do.		
Mag		do.		
Oliv		Aalbourg,		
Fant		do.		
Clec		Wordurborg,		
Cant		do.		
Flor		Naschou,		
Will		Copenhagen,		

<i>Vessels.</i>	<i>Masters.</i>	<i>Owners.</i>	<i>Fr</i>
Sophia,	M ^c Intire,	Gothenburg,	Liverp
Eliza,	Luffkin,	do.	do.
Margaret,	Porter,		
Minerva,	Jackson,		
Eliza,	Moore,		
Volunteer,	Leeds,		
Eliza,	Morgan,		
Vermont,	Nichols,		
Rebecca,	Nimmo,		Memel
Commerce,	Otis,		
Ann Louisa,	Roche,		
James,	Coffin,		
Two Friends,	Livingston,		
Moses Gill,	M ^c Coin,		
	Swain,		

The foregoing statem

It appears that there were—		
Captures in 1809		63
Do. 1811		124
		—1
Cleared		114
Condemned		31
Pending		14
Convoy cases pending		10
Condemned cases of a desperate character		16
Cases transferred to Paris		2
		—187 to

*Note of the further proceedings on the 24 pending cases, sub-
to May 30, 1811, (including convoy cases) viz.*

*LIST of AMERICAN VESSELS which have entered No-
intelligence respecting which has been received since that
American cases for the year 1811—viz.*

<i>Vessels.</i>	<i>Masters.</i>	<i>Of</i>	<i>From</i>
Rachel,	Joseph,	Salem,	Boston,
Charlotte,	Pierce,	Boston,	do.
Augusta,	Flint,	Salem,	Salem,
Swift,	Clarkson,	Newburyport,	Newburyport,
Experiment,	Vibbert,	New York,	New York,
Concordia,	Johnson,	do.	do.
Orestes,	Allan,	Salem,	Salem,
Wm. & Eliza,	Howland,	New Bedford,	New Bedford,
Iris,	Woodbury,	Boston,	Boston,
Swift,	Daggett,	Providence,	Providence,
Washington,	Story,	Salem,	Salem,
Pauline,	Coffin,	New York,	New York,
Herace,	Leach,	Salem,	Salem,
Herald,	Silsby,	do.	do.

<i>Vessels.</i>	<i>Masters.</i>	<i>Of</i>	<i>From</i>
Catharine, Henry, Union, William, Adeline, William, Jason, Sukey, Sachem, Mentor, Sally, John Adams, Jewel, Columbia, Success, Adamant,	Endicott, Harris, Proctor, Stanley, Felt, Knight, Frost, Osgood, Howland, Ashton, Giddings, Downing, Robinson, Dixon, Porter, Eames,	Salem, do. Marblehead, Boston, Newport, Boston, Salem, do. Boston, Salem, Beverly, Boston, Portland, Philadelphia, Salem, Boston,	Riga, Salem, Marblehead, Rival, Newport, Boston, Salem, do. Boston, Salem, Beverly, Savannah, Portland, Philadelphia, Salem, Boston,
Betsey, Mary Ann, Alexander, Transport,	Barker, Wilman, Davis, Mathews,	do. Salem, Boston, New York,	do. Salem, Algiers, New York,
Hope, Alknomac, Rubicon, Orient, Dover,	Pearl, Iris, Hovey, Andrews, Burroughs,	Salem, New York, Boston, Marblehead, Providence,	Newport, New York, Savannah, Marblehead, St. Michaels,
Amsterdam Packet,	Bailey,	New York,	New York,
Lady Madison, Arno, John, Juno, Hannah, Columbus, Dolly, Rebecca, William,	Swain, Merchant, Reynolds, Page, Lade, Robin, Parsons, Searl, Goodwin,	do. Boston, Providence, Salem, Portsmouth, Plymouth, Newburyport, Salem, Boston,	do. Boston, Providence, Salem, New York, do. Tonningen, Salem, Lisbon,
Argo, Joseph, William & Henry, Hugh Johnson, Hope, Cordelia, General Hamilton, Milford, George,	Barnes, Allan, Seabury, Johnson, Lovett, Boil, Holdon, Weeks, Howland,	Baltimore, do. Newport, Boston, do. do. New Orleans, Portland, New Bedford,	Baltimore, Boston, Petersburg, Boston, do. do. New Orleans, Portland, New Bedford,

July 15, 1811—Of these 58 vessels, the "Rachel, Joseph," will be condemned.

The two which have desired to sell their cargoes have been not yet received.

capture them under convoy. The undersigned must repeat that the rule laid down by that article of the ordinance, will be followed by the prize courts whenever the proofs are clear; that the vessels under American flags as well as those of other nations are found in a convoy under the protection of the enemies of Denmark. He does not wish to repeat here what he had the honour of stating on this subject in his preceding note; but he begs Mr. Erving to be so good as to observe to his government that none of the powers of Europe have called in question the justice of this principle.

Mr. Erving has observed, that notwithstanding the Danish courts had not been directed to consider the certificates of origin granted by the French consuls in the ports of America as false until after the 22d September of last year, there has nevertheless been imposed upon two vessels acquitted by the supreme court of admiralty, a fine solely for having these certificates on board, as Mr. Erving has been informed. The undersigned, although he is not informed of these facts, will not call in question the assertion of the minister of the United States; and he must consequently suppose that the suspicion of the legality of these certificates was excited by the publick declaration which was before made on the part of the French government, that the consuls of France were not authorized to grant the certificates in question, and that for that reason the courts have decided that the captors were justified in bringing in the vessels for examination.

ROSENKRANTZ.

Hon. Mr. Erving, &c. &c.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.
NOV. 7, 1811.

I now lay before Congress two letters to the department of state, one from the present plenipotentiary of France, the other from his predecessor, which were not

VOL. VIII.

30

included among the documents accompanying my message of the fifth instant, the translation of them being not then completed.

JAMES MADISON.

LETTERS.

Translation of a Letter from Gen. Turreau to the Secretary of State. Nov. 14, 1810.

SIR,—Although you may have been already informed through another official channel of the repeal of the decrees of Berlin and Milan, it is agreeable to me to have to confirm to you this new liberal disposition of my court towards the government of the States of the Union.

You will recollect, without doubt, sir, that these decrees were adopted in retaliation for the multiplied measures of England against the rights of neutrals, and especially against those of the United States: and after this new proof of deference to the wishes of your government, his majesty the emperor has room to believe that it will make new efforts to withdraw the American commerce from the yoke which the prohibitory acts of Great Britain have imposed upon it. You will, at the same time observe, sir, that the clearly expressed intention of my government is, that the renewal of commercial intercourse between France and the United States cannot alter the system of exclusion adopted by all Europe, against all the products of the soil or of the manufactures of England or her colonies: a system, the wisdom and the advantages of which are already proved by its development and its success. And of which also, the United States, as an agricultural and commercial power, have a particular interest, in aiding in, and hastening the completion. Moreover, sir, this measure of my government, and those which yours may think proper to adopt, will prove the inutility of the efforts of the common enemy to break the ties of friendship which a humane and generous policy has necessarily formed between France and the United States, and which the actual crisis ought to draw closer. We ought hereafter, sir, to hope, or rather we may be assured, that new relations still more close and more friendly are about to be formed between Americans and Frenchmen, and that these two

people will be more than ever convinced that their glory, their interest and their happiness, must eternally consecrate the principle and the conservation of these relations.

I seize with eagerness this occasion, sir, of renewing to you the assurance of my high consideration.

TURREAU.

Washington, July 23, 1811.

SIR,—The new dispositions of your government expressed in the supplementary act of the 2d of March last, having been officially communicated to my court by the chargé d'affaires of the United States, his imperial majesty, as soon as he was made acquainted with them, directed that the American vessels sequestered in the ports of France, since the 2d of November, should be released. Their cargoes have been admitted, and some of them have departed upon conforming with the municipal laws of the country; that is to say, by exporting wines, silks and the products of French manufactures. Orders were to be given at the same time, that all American vessels coming from the United States, and loaded with merchandise, the growth of the country, should be admitted and received in all the ports of France.

I hasten, sir, according to the orders I have received, to make these dispositions known to your government.

In order to prevent all difficulty in relation to the cargoes of vessels, the table indicating the merchandise of the growth of the United States has been prepared; and it has been thought that a rule could not be adopted more favourable and more sure, than the statement itself of the exportations made by the Americans during the year which preceded the embargo, viz: from 1st October, 1806, to 30th September, 1807, a period during which your commerce of exportation was in full activity. I annex this table to my letter. Coffee, sugar and cocoa are not included in this statement. These articles of merchandise have always been ranged in the class of colonial products, and whatever may be their origin, his majesty, while favouring in his states many branches of culture, and many new establishments with a view of supplying their place by indigenous productions, could not encourage indefinitely

their exportation. Vessels arriving with permits, by means of which the importation of merchandise of this sort is authorized, will be admitted.

The introduction of tobacco is not prohibited. It forms the first object of culture of some of the States of the Union, and his majesty having an equal interest in the prosperity of all, desires that the relations of commerce should be common to all parts of the federal territory; but tobacco is under an administration (*en régie*) in France; the administration is the only consumer, and can purchase only the quantity necessary for its consumption. It became necessary that measures should be taken upon this subject, and they have been conformable to the common interest. Tobacco will be received in the ports of France and placed in actual deposit (*en entrepôt réel*;) and if more arrives than the administration can purchase, the transit of the surplus will be permitted across France for Germany and the other states of Europe, in which the American merchants may find a sale for it.

All the vessels of the United States which may arrive in France will have to discharge the customhouse duties, to which the merchandise they may bring is subject; and their return must be effected by exporting an equal value in French wines, silks, and other articles of French manufacture, in the proportions determined by the regulations.

Merchandise of the growth of the United States composing the cargoes of American vessels, must be accompanied with a certificate of origin, delivered by the French consul of the port from whence the vessel departed.

I flatter myself, sir, that the communication of these dispositions of the emperor, in favour of American commerce, will be as agreeable to your government, as it is to me to be the means of making it.

I have the honour, sir, to renew to you the assurance of my high consideration.

The Minister of France,

SERRURIER.

Mr. Monroe, Secretary of State.

Productions of the Soil and of the Manufactures of the United States exported from the 1st October, 1806, to the 30th September, 1807.

SALT or smoked fish, dried or pickled do. whale and other fish oil, whale bone, spermaceti candles, staves and heading, shingles, hoops, plank, timber, lumber of all kinds, masts and spars, manufactures of wood, oak bark and other dyes, tar, pitch, rosin, turpentine, skins and furs, ginseng, beef, tallow, hides, horned cattle, pork, hams and bacon, lard, hogs, butter, cheese, pot and pearl ashes, horses, mules, sheep, poultry, mustard, cotton, linseed oil, spirits of turpentine, cards, wool and cotton, maple and other brown sugar, bar iron, nails, castings, canvass and sail cloth, wheat, flour, rye meal, buck wheat meal, biscuit or ship bread, indian corn, indian meal, rye, oats, barley, buckwheat, beans, peas, apples, potatoes, rice, indigo, tobacco, flaxseed, hops, wax, household furniture, coaches and other carriages, hats, saddlery, boots, shoes, silk and leather, beer, porter and cider in casks and bottles, spirits from grain, starch, candles, soap, wax candles, hair powder, snuff, tobacco manufactured, bricks, essence of bark, cables and cordage, spirits from molassés, refined sugar, chocolate, gunpowder, copper manufactured, medicinal drugs.

True copy,

The Minister of Foreign Relations,
THE DUKE OF BASSANO.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. NOV. 13, 1811.

I COMMUNICATE to Congress copies of a correspondence between the envoy extraordinary and minister plenipotentiary of Great Britain and the Secretary of State, relative to the aggression committed by a British ship of war on the United States frigate Chesapeake, by which it will

be seen that that subject of difference between the two countries is terminated by an offer of reparation which has been acceded to.

JAMES MADISON.

Mr. Foster to Mr. Monroe. Washington, Oct. 30, 1811.

SIR,—I had already the honour to mention to you that I came to this country furnished with instructions from his royal highness the prince regent, in the name and on the behalf of his majesty, for the purpose of proceeding to a final adjustment of the differences which have arisen between Great Britain and the United States of America in the affair of the Chesapeake frigate, and I had also that of acquainting you with the necessity, under which I found myself, of suspending the execution of those instructions in consequence of my not having perceived that any steps whatever were taken by the American government to clear up the circumstances of an event which threatened so materially to interrupt the harmony subsisting between our two countries, as that which occurred in the month of last May, between the United States' ship President and his majesty's ship Little Belt, when every evidence before his majesty's government seemed to show that a most evident and wanton outrage had been committed on a British sloop of war by an American commodore.

A court of inquiry, however, as you informed me in your letter of the 11th instant, has since been held by order of the President of the United States, on the conduct of commodore Rodgers, and this preliminary to further discussion on the subject being all that I asked in the first instance, as due to the friendship subsisting between the two states, I have now the honour to acquaint you that I am ready to proceed in the truest spirit of conciliation to lay before you the terms of reparation which his royal highness has commanded me to propose to the United States' government, and only wait to know when it will suit your convenience to enter upon the discussion.

I have the honour to be, &c.

AUG. J. FOSTER.

To the Hon. James Monroe, &c. &c. &c.

Mr. Monroe to Mr. Foster. Department of State, Oct. 31, 1811.

SIR,—I have just had the honour to receive your letter of the 30th of this month.

I am glad to find, that the communication which I had the honour to make to you on the 11th instant relative to the court of inquiry, which was the subject of it, is viewed by you in the favourable light which you have stated.

Although I regret that the proposition which you now make in consequence of that communication, has been delayed to the present moment, I am ready to receive the terms of it whenever you may think proper to communicate them. Permit me to add, that the pleasure of finding them satisfactory will be duly augmented, if they should be introductory to a removal of all the differences depending between our two countries, the hope of which is so little encouraged by your past correspondence. A prospect of such a result will be embraced, on my part, with a spirit of conciliation, equal to that which has been expressed by you.

I have the honour to be, &c.

JAMES MONROE.

Augustus J. Foster, Esq. &c. &c.

Mr. Foster to Mr. Monroe. Washington, Nov. 1, 1811.

SIR,—In pursuance of the orders which I have received from his royal highness the prince regent, in the name and on the behalf of his majesty, for the purpose of proceeding to a final adjustment of the differences which have arisen between Great Britain and the United States, in the affair of the Chesapeake frigate, I have the honour to acquaint you—First, that I am instructed to repeat to the American government the prompt disavowal made by his majesty (and recited in Mr. Erskine's note of April 17, 1809, to Mr. Smith,) on being apprized of the unauthorized act of the officer in command of his naval forces on the coast of America, whose recall from a highly important and honourable command immediately ensued as a mark of his majesty's disapprobation.

Secondly, that I am authorized to offer, in addition to that disavowal, on the part of his royal highness, the immediate restoration, as far as circumstances will admit, of the men who, in consequence of admiral Berkeley's orders, were forcibly taken out of the Chesapeake, to the vessel from which they were taken: or, if that ship should be no longer in commission, to such seaport of the United States as the American government may name for the purpose.

Thirdly, that I am also authorized to offer to the American government a suitable pecuniary provision for the sufferers in consequence of the attack on the Chesapeake, including the families of those seamen who unfortunately fell in the action, and of the wounded survivors.

These honourable propositions, I can assure you, sir, are made with the sincere desire that they may prove satisfactory to the government of the United States, and I trust they will meet with that amicable reception which their conciliatory nature entitles them to. I need scarcely add how cordially I join with you in the wish, that they might prove introductory to a removal of all the differences depending between our two countries.

I have the honour to be, &c.

AUG. J. FOSTER.

To the Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster. Nov. 12, 1811.

SIR,—I have had the honour to receive your letter of the 1st November, and to lay it before the President.

It is much to be regretted that the reparation due for such an aggression as that committed on the United States frigate the Chesapeake, should have been so long delayed; nor could the translation of the offending officer from one command to another be regarded as constituting a part of a reparation otherwise satisfactory; considering however the existing circumstances of the case, and the early and amicable attention paid to it by his royal highness the prince regent, the President accedes to the proposition contained in your letter, and in so doing your government will, I am persuaded, see a proof of the conciliatory disposition by which the President has been actuated.

The officer commanding the Chesapeake now lying in the harbour of Boston, will be instructed to receive the men who are to be restored to that ship.

I have the honour, &c. &c.

JAMES MONROE.

Augustus J. Foster, &c. &c. &c.

REPORT

OF THE COMMITTEE ON FOREIGN RELATIONS. NOVEMBER 29,
1811.

THE committee to whom was referred that part of the President's message, which relates to our foreign affairs, beg leave to report in part—

That they have endeavoured to give to the subject submitted to them, that full and dispassionate consideration which is due to one so intimately connected with the interest, the peace, the safety and honour of their country.

Your committee will not encumber your journals and waste your patience with a detailed history of all the various matters growing out of our foreign relations. The cold recital of wrongs, of injuries and aggressions known and felt by every member of this Union, could have no other effect than to deaden the national sensibility, and render the publick mind callous to injuries with which it is already too familiar.

Without recurring then to the multiplied wrongs of partial or temporary operation, of which we have so just cause of complaint against the two great belligerents, your committee will only call your attention, at this time, to the systematick aggression of those powers, authorized by their edicts against neutral commerce—a system, which as regarded its principles, was founded on pretensions that went to the subversion of our national independence: and which, although now abandoned by one power, is, in its broad and destructive operation as still enforced by the other, sapping the foundation of our prosperity.

It is more than five years since England and France, in violation of those principles of justice and public law, held sacred by all civilized nations, commenced this unprecedented system, by seizing the property of the citizens of the United States, peaceably pursuing their lawful commerce on the high seas. To shield themselves from the odium which such outrages must incur, each of the belligerents sought a pretext in the conduct of the other—each attempting to justify his system of rapine as a retaliation for similar acts on the part of his enemy. As if the law of nations, founded on the eternal rules of justice, could sanction a principle, which, if engrafted into our municipal code, would excuse the crime of *one* robber, upon the sole plea that the unfortunate object of his cupidity, was also a victim to the injustice of another. The fact of priority could be true as to one only of the parties; and whether true or false, could furnish no ground of justification.

The United States thus unexpectedly and violently assailed by the two greatest powers in Europe, withdrew their citizens and property from the ocean: and cherishing the blessing of peace, although the occasion would have fully justified war, sought redress in an appeal to the justice and magnanimity of the belligerents. When this appeal had failed of the success which was due to its moderation, other measures, founded on the same pacifick policy, but applying to the interests, instead of the justice of the belligerents, were resorted to. Such was the character of the non-intercourse and non-importation laws, which invited the return of both powers to their former state of amicable relation, by offering commercial advantages to the one who should first revoke his hostile edicts, and imposing restrictions on the other.

France, at length, availing herself of the proffers made equally to her and her enemy, by the non-importation law of May, 1810, announced the repeal on the first of the following November, of the decrees of Berlin and Milan. And it affords a subject of sincere congratulation to be informed, through the official organs of the government, that those decrees are, so far at least as our rights are concerned, really and practically at an end.

It was confidently expected that this act on the part of France, would have been immediately followed by a revocation on the part of Great Britain of her orders in council. If our reliance on her justice had been impaired by the wrongs she had inflicted ; yet when she had plighted her faith to the world that the sole motive of her aggression on neutral commerce was to be found in the Berlin and Milan decrees, we looked forward to the extinction of those decrees, as the period when the freedom of the seas would be again restored.

In this reasonable expectation we have, however, been disappointed. A year has elapsed since the French decrees were rescinded, and yet Great Britain, instead of retracting *pari passu* that course of unjustifiable attack on neutral rights in which she professed to be only the reluctant follower of France, has advanced with bolder and continually increasing strides. To the categorical demands lately made by our government for the repeal of her orders in council, she has affected to deny the practical extinction of the French decrees : and she has, moreover, advanced a new and unexpected demand, increasing in hostility the orders themselves. She has insisted, through her accredited minister at this place, that the repeal of the orders in council must be preceded, not only by the practical abandonment of the decrees of Berlin and Milan, so far as they infringe the neutral rights of the United States ; but by the renunciation on the part of France, of the whole of her system of commercial warfare against Great Britain, of which those decrees originally formed a part.

This system is understood to consist in a course of measures adopted by France and the other powers on the continent subject to, or in alliance with her, calculated to prevent the introduction into their territories of the products and manufactures of Great Britain and her colonies ; and to annihilate her trade with them. However hostile these regulations may be, on the part of France towards Great Britain ; or however sensibly the latter may feel their effects, they are, nevertheless, to be regarded only as the expedients of one enemy against another, for which the United States, as a neutral power, can, in no respect, be responsible : they are, too, in exact conformity with those which Great Britain has herself adopted

and acted upon in time of peace as well as war. And it is not to be presumed that France would yield to the unauthorized demand of America what she seems to have considered as one of the most powerful engines of the present war.

Such are the pretensions upon which Great Britain founds the violation of the maritime rights of the United States—pretensions not theoretical merely, but followed up by a desolating war upon our unprotected commerce. The ships of the United States, laden with the products of our own soil and labour, navigated by our own citizens and peaceably pursuing a lawful trade, are seized on our own coasts, at the very mouths of our harbours, and condemned and confiscated.

Your committee are not, however, of that sect whose worship is at the shrine of a calculating avarice. And while we are laying before you the just complaints of our merchants against the plunder of their ships and cargoes, we cannot refrain from presenting to the justice and humanity of our country the unhappy case of our impressed seamen. Although the groans of these victims of barbarity for the loss of (what should be dearer to Americans than life) their liberty—although the cries of their wives and children in the privation of protectors and parents, have, of late, been drowned in the louder clamours at the loss of property: yet is the practice of forcing our mariners into the British navy, in violation of the rights of our flag, carried on with unabated rigour and severity. If it be our duty to encourage the fair and legitimate commerce of this country by protecting the property of the merchant, then, indeed, by as much as life and liberty are more estimable than ships and goods, so much more impressive is the duty to shield the persons of our seamen, whose hard and honest services are employed, equally with those of the merchants, in advancing, under the mantle of its laws, the interests of their country.

To sum up, in a word, the great causes of complaint against Great Britain, your committee need only say—That the United States as a sovereign and independent power, claim the right to use the ocean, which is the common and acknowledged highway of nations, for the purposes of transporting, in their own vessels, the products of their own soil and the acquisitions of their own industry,

to a market in the ports of friendly nations, and to bring home, in return, such articles as their necessities or convenience may require, always regarding the rights of belligerents, as defined by the established laws of nations. Great Britain, in defiance of this incontestable right, captures every American vessel bound to or returning from a port where her commerce is not favoured; enslaves our seamen, and in spite of our remonstrances perseveres in these aggressions.

To wrongs so daring in character, and so disgraceful in their execution, it is impossible that the people of the United States should remain indifferent. We must now tamely and quietly submit, or we must resist by those means which God has placed within our reach.

Your committee would not cast a shade over the American name, by the expression of a doubt which branch of this alternative will be embraced. The occasion is now presented when the national character, misunderstood and traduced for a time by foreign and domestick enemies, should be vindicated.

If we have not rushed to a field of battle like the nations who are led by the mad ambition of a single chief, or the avarice of a corrupted court, it has not proceeded from a fear of war, but from our love of justice and humanity. That proud spirit of liberty and independence, which sustained our fathers in the successful assertion of their rights against foreign aggression, is not yet sunk. The patriotick fire of the revolution still burns in the American breast with a holy and inextinguishable flame, and will conduct this nation to those high destinies, which are not less the reward of dignified moderation, than of exalted valour.

But we have borne with injury until forbearance has ceased to be a virtue. The sovereignty and independence of these States, purchased and sanctified by the blood of our fathers, from whom we received them, not for ourselves only, but as the inheritance of our posterity, are deliberately and systematically violated. And the period has arrived, when in the opinion of your committee, it is the sacred duty of Congress to call forth the patriotism and resources of the country. By the aid of these, and with the blessing of God, we confidently trust we shall be enabled to procure that redress, which has been sought for by justice, by remonstrance and forbearance in vain.

Your committee, reserving for a future report, those ulterior measures, which in their opinion ought to be pursued, would at this time earnestly recommend, in the words of the President, "That the United States be immediately put into an armour and attitude demanded by the crisis, and corresponding with the national spirit and expectations."

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.
JANUARY 16, 1842.

I TRANSMIT to the Senate a report of the Secretary of State, complying with their resolution of the 18th of November.

JAMES MADISON.

REPORT.

THE Secretary of State, to whom was referred the resolution of the Senate requesting information on certain points respecting the trade of the United States to France, has the honour to report to the President, that he has examined the files of this department, and found no precise information on the subject of the said resolution, which has not been heretofore communicated to Congress.

That in consequence thereof he applied to the French minister for the requisite information, who, not possessing it, referred the application to the consul-general of France, from whom, as yet, nothing has been received, as will more fully appear by the accompanying letters, marked A and B.

It may be proper to observe, that it is generally understood, as well from the letters of Mr. Russell, communicated to Congress at the commencement of the present session as from other sources, that the trade of the United States to France is subjected to very severe restrictions; but the precise extent and nature of them is not distinctly

known to this department. The instructions of the minister of the United States at Paris embracing this as well as other subjects, communications from that source may soon furnish more particular information. An expectation of the speedy arrival of despatches from France, together with a hope that the French consul-general would have been enabled to throw some light upon the inquiry, have caused the postponement of this report until the present time.

JAMES MONROE.

Department of State, Jan. 16, 1812.

(A.)

Department of State, Jan. 4, 1812.

SIR,—When I did myself the honour to submit to you a copy of the resolution of the Senate of the United States of the 18th of November last, asking information as to the commercial regulations of France, as they applied to the trade of this country, you told me that it was not then in your power to give precise information as to these regulations, but that you would obtain it for me from Mr. Lescallier, his imperial majesty's consul-general in Philadelphia. I have now the honour to inquire whether Mr. Lescallier has made a report to you on this subject; and if he has, to request that you will furnish me with the result, as soon as your convenience will permit.

I have the honour, &c.

JAMES MONROE.

Mr. Serrurier, &c. &c. &c.

(B.)

TRANSLATION.

Washington, Jan. 5, 1812.

SIR,—The documents for which the Senate called upon you not being in my possession, in consequence of the desire you manifested to obtain them through me, I charged the consul-general to procure them for me. I have not yet received his answer, It would not be extraordinary if

Mr. Lescallier should not have the tariff, inasmuch as it is of little use to the French in this country ; but I wrote to Paris at the time of our first conversation on this subject.

I will immediately renew my application to the consul-general, and from whatever source I may derive the information required, I will hasten to transmit it to you.

I beg you, sir, to receive, &c. &c.

The Minister of France.

SERRURIER.

Mr. Monroe, &c. &c. &c.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JANUARY 16, 1812.

I COMMUNICATE to Congress a letter from the envoy extraordinary and minister plenipotentiary of Great Britain to the Secretary of State, with the answer of the latter.

The continued evidence, afforded in this correspondence, of the hostile policy of the British government against our national rights, strengthens the considerations recommending and urging the preparation of adequate means for maintaining them.

JAMES MADISON.

Mr. Foster to Mr. Monroe. Washington, December 17, 1811.

SIR,—I did not mean to have written to you at this moment on the subject of our late correspondence, but that I have had the mortification to perceive statements, circulated from highly respectable sources, which gave a view of the pretensions of Great Britain relative to the United States, not warranted by any of the letters which I had the honour to address to you, and which at a time when discussions are continuing so important to the two countries, might, if left unrectified, produce an effect highly to be

lamented by both the American and British governments, inasmuch as by creating unnecessary irritation, they might throw obstacles in the way of a restoration of a friendly understanding between them.

I find it asserted in the statement referred to, that I have in the name of my government, demanded that the United States' government should pass a law for the introduction of British goods into the American ports, and also that the United States should undertake to force France to receive into her harbours, British manufactures.

I beg permission, sir, to declare that neither of these demands have been made by me, and that my meaning must not have been understood, if such was conceived to have been its import.

I could not have demanded the passage of such a law as above stated, because my government does not pretend to interfere with the internal government of a friendly power, nor did I mean to demand that America should force France to receive our manufactures.

All I meant to say was, that the admission of French commerce while that of England has been excluded from the United States' ports, was regarded by Great Britain as highly unfriendly in America, and that a continuation of such policy would be retaliated upon by Great Britain with similar restrictions on her part, which was so far merely an offering of like for like. But while the American non-importation act excludes British trade from the United States' ports, it must be recollected that it goes still further and excludes also British armed ships from American ports, while it admits those of the enemies of Great Britain. "A neutral nation is responsible for the equality of its rules of conduct towards the belligerent powers" (to use the words of an American Secretary of State in the year 1796) and therefore the part of the law which establishes an inequality was justly an object of more serious complaint on the part of Great Britain. You are aware, sir, of the advantage which his majesty's enemies have derived from this state of inequality which enables them, though possessing no port in this hemisphere, continually to prey on the trade of his majesty's subjects, secure of a refuge for their cruisers and their prizes.

The prohibition of entry to his majesty's ships under these circumstances might perhaps justify Great Britain in asserting, that whatever reason she may have for repealing or modifying her orders in council, so as to lessen or entirely remove the pressure now unavoidably laid on the trade of America as a neutral nation, she might yet refuse to enter into any discussion on that subject with the United States, until either by the revocation of the prohibition above stated, or the placing all the belligerents under the same prohibition, America should cease to violate the duties of a neutral nation.

With respect, however, to the supposed demand that America should force the entry of British manufactures into France, it is most particularly necessary that I should explain myself, as a total misconception appears to have taken place upon this point. The question of retaliation on the French decrees is directly one between England and France. In consequence of the extraordinary blockade of England, we have in our defence been obliged to blockade France, and prohibit all trade in French articles in return for the prohibition by France of all trade in English articles. This measure of retaliation, it is wished, should operate on France alone, but from the trade carried on with France by America, it unavoidably operates also on her; it is a measure to destroy the French trade in return for the similar measure of France on which it is retaliatory, and its acting on neutrals is an incidental effect of it, consequent upon the submission of neutrals to the original measures of the enemy against Great Britain. It is, indeed, melancholy that the unnatural situation of Europe should produce such a result, but I cannot see how this can be considered as war on American commerce, when all other American trade but that which is carried on with our enemy's ports in defiance of a blockade authorized by the laws of retaliation, is unaffected by it. We complain that America does not resist the regulations of the Berlin and Milan decrees, and object to permitting the French to trade with her during their continuance against the commerce of England; but this is not exacting, as has been represented, that America should force British manufactures into France; it is pursuing only a just course of retaliation on our enemy. If America wishes to trade with France, if French commerce is of importance

to her—we expect she should exact of France to trade with her as she has a right to demand in her quality of neutral; but if she does not choose to exercise this right, all we ask is, that she should abstain from lending her assistance to the trade of France, and not allow her commerce to be a medium of undermining the resources of Great Britain.

I have thought it necessary thus to endeavour to set these two points in their true light: the repeal of the law was asked, as being an unfriendly measure, partial in its operation against Great Britain, and a prospect of retaliation was held out on its commercial operation if continued. This is no demand on the United States to admit British manufactures; they are at liberty to continue that law, only as it is of an unfriendly nature, some restrictions of a similar kind was to be expected from England; and with respect to the alleged demand for forcing British goods, the property of neutrals, into French ports, if the United States are willing to acquiesce in the regulations of the French decrees unlawfully affecting England through them, they cannot surely be surprised if we consider ourselves as at liberty to refuse permission to the French to profit by that acquiescence.

I will now, sir, take the opportunity of stating to you, that I have received from his majesty's secretary of state, the correspondence of which you did me the honour to transmit to me a copy in your letter dated October 17. My government have not been able to see in it satisfactory proof of the repeal of the French decrees, and doubt whether the trade carried on by licenses between France and America, will not be regarded, even here, as proof of the continuation of them in their fullest extent; for if they were to any extent repealed, to that extent at least no license should be necessary, a license being given to allow what, but for that license, would be prohibited.

The continued absence hitherto of any instrument by which the repeal has been affected, is a matter also of surprise, for if there were any fair dealing in the transaction, no reason can be given by France for not producing it; it is very desirable that it should be produced, if such an instrument be in existence, in order that we may know to what extent the decrees have been repealed, if they really have been so in any respect. Mr. Russell, however,

does not appear to have been in possession of it at the date of his letter of last July. It is indeed become particularly interesting, that we should see this instrument since the publication of Mr. Russell's correspondence with his own government, by which it appears that really, and in fact, the French government did not release any American ship taken after November 1, until they had become acquainted with the President's proclamation, and that vessels have been taken so late as December 21, in the direct voyage from this country to London; for until a copy of such instrument is produced, it is impossible to know whether any other trade is allowed by France than that between her own dominions and the ports of the United States.

I have the honour to be, &c.

AUG. J. FOSTER.

To the Hon. James Monroe, &c. &c.

*Mr. Monroe to Mr. Foster. Department of State; Jan.
14, 1812.*

SIR,—I have had the honour to receive your letter of December 17th, and I embrace the first moment that I could command, to make the observations which it suggests.

It would have afforded great satisfaction to the President, to have found in the communication, some proof of a disposition in the British government to put an end to the difference subsisting between our countries. I am sorry to be obliged to state, that it presents a new proof only of its determination to adhere to the policy, to which they are imputable.

You complain that the import of your former letters has been misunderstood in two important circumstances: that you have been represented to have demanded of the United States, a law for the introduction of British goods into their ports, and that they should also undertake to force France to receive British manufactures into her harbours.

You state that on the first point, it was your intention only to remonstrate against the non-importation act, as partial in its operation, and unfriendly to Great Britain, on which account its repeal was claimed, and to intimate that if it was persevered in, Great Britain would be com-

pelled to retaliate on the commerce of the United States, by similar restrictions on her part. And on the second point, that you intended only to urge, that in consequence of the extraordinary blockade of England, your government had been obliged to blockade France, and to prohibit all trade in French articles, in return for the prohibition by France of all trade in English articles.

It is sufficient to remark on the first point, that on whatever ground the repeal of the non-importation act is required, the United States are justified in adhering to it, by the refusal of the British government to repeal its orders in council; and if a distinction is thus produced between Great Britain and the other belligerent, it must be referred to the difference in the conduct of the two parties.

On the second point, I have to observe that the explanation given cannot be satisfactory, because it does not meet the case now existing. France did, it is true, declare a blockade of England, against the trade of the United States, and prohibit all trade in English articles on the high seas, but this blockade and prohibition no longer exist. It is true also, that a part of those decrees, did prohibit a trade in English articles, within her territorial jurisdiction; but this prohibition violates no national rights, or neutral commerce, of the United States. Still your blockade and prohibition are continued, in violation of the national and neutral rights of the United States, on a pretext of retaliation, which, if even applicable, could only be applied to the former, and not to the latter interdicts; and it is required that France shall change her internal regulations against English trade, before England will change her external regulations against the trade of the United States.

But you still insist that the French decrees are unrevoked, and urge in proof of it, a fact drawn from Mr. Russell's correspondence, that some American vessels have been taken since the first of November, in their route to England. It is a satisfactory answer to this remark, that it appears by the same correspondence, that every American vessel which had been taken in that trade, the seizure of which rested on the Berlin and Milan decrees only, were, as soon as that fact was ascertained, delivered up to their owners. Might there not be other ground also,

on which seizures might be made? Great Britain claims a right to seize for other causes, and all nations admit it in the case of contraband of war. If by the law of nations, one belligerent has a right to seize neutral property in any case, the other belligerent has the same right. Nor ought I to overlook that the practice of counterfeiting American papers in England, which is well known to the continent, has, by impairing the faith due to American documents, done to the United States essential injury. Against this practice the minister of the United States at London, as will appear by reference to his letter to the marquis Wellesley of the 3d of May, 1810, made a formal representation, in pursuance of instructions from his government, with an offer of every information possessed by him, which might contribute to detect and suppress it. It is painful to add that this communication was entirely disregarded. That Great Britain should complain of acts in France, to which by her neglect, she was instrumental, and draw from them proof in support of her orders in council, ought certainly not to have been expected.

You remark also, that the practice of the French government to grant licenses to certain American vessels, engaged in the trade between the United States and France, is an additional proof that the French decrees still operate in their fullest extent. On what principle this inference is drawn from that fact it is impossible for me to conceive. It was not the object of the Berlin and Milan decrees to prohibit the trade between the United States and France. They were meant to prohibit the trade of the United States with Great Britain which violated our neutral rights, and to prohibit the trade of Great Britain with the continent, with which the United States have nothing to do. If the object had been to prohibit the trade between the United States and France, Great Britain could never have found in them any pretext for complaint. And if the idea of retaliation, could in any respect have been applicable, it would have been by prohibiting our trade with herself. To prohibit it with France, would not have been a retaliation; but a co-operation. If licensing by France the trade in certain instances, prove any thing, it proves nothing more than that the trade with France, in other instances, is under restraint. It seems impossible to extract from it in any respect, that the Ber-

lin and Milan decrees are in force, so far as they prohibit the trade between the United States and England. I might here repeat that the French practice of granting licenses to trade between the United States and France, may have been intended in part, at least, as a security against the simulated papers; the forging of which was not suppressed in England. It is not to be inferred from these remarks, that a trade by license, is one with which the United States are satisfied. They have the strongest objections to it, but these are founded on other principles, than those suggested in your note.

It is a cause of great surprise to the President, that your government has not seen in the correspondence of Mr. Russell, which I had the honour to communicate to you on the 17th of October last, and which has been lately transmitted to you by your government, sufficient proof of the repeal of the Berlin and Milan decrees. Independent of the conclusive evidence of the fact, which that correspondence afforded, it was not to be presumed from the intimation of the marquis of Wellesley, that if it was to be transmitted to you, to be taken into consideration in the depending discussions, that it was of a nature to have no weight in these discussions.

The demand which you now make of a view of the order given by the French government to its cruisers, in consequence of the repeal of the French decrees, is a new proof of its indiposition to repeal the orders in council. The declaration of the French government was, as has been heretofore observed, a solemn and obligatory act, and as such entitled to the notice and respect of other governments. It was incumbent on Great Britain, therefore, in fulfilment of her engagement, to have provided that her orders in council should not have effect, after the time fixed for the cessation of the French decrees. A pretension in Great Britain to keep her orders in force till she received satisfaction of the practical compliance of France, is utterly incompatible with her pledge. A doubt, founded on any single act, however unauthorized, committed by a French privateer, might, on that principle, become a motive for delay and refusal. A suspicion that such acts would be committed might have the same effect; and in like manner her compliance might be withheld as long as the war continued.—But let me here remark, that if there was

room for a question, whether the French repeal did or did not take effect, at the date announced by France, and required by the United States, it cannot be alleged that the decrees have not ceased to operate since the 2d of February last, as hitherto observed. And as the actual cessation of the decrees to violate our neutral rights, was the only essential fact in the case, and has long been known to your government, the orders in council, from the date of that knowledge, ought to have ceased, according to its own principles and pledges.

But the question whether and when the repeal of the Berlin and Milan decrees have took effect in relation to the neutral commerce of the United States, is superceded by the novel and extraordinary claim of Great Britain to a trade in British articles, with her enemy; for supposing the repeal to have taken place, in the fullest extent claimed by the United States, it could according to that claim, have no effect in removing the orders in council.

On a full view of the conduct of the British government in these transactions, it is impossible to see in it any thing short of a spirit of determined hostility to the rights and interests of the United States. It issued the orders in council, on a principle of retaliation on France, at a time when it admitted the French decrees to be ineffectual: it has sustained these orders in full force since, notwithstanding the pretext for them has been removed, and latterly it has added a new condition to their repeal, to be performed by France, to which the United States in their neutral character has no claim, and could not demand, without departing from their neutrality, a condition which, in respect to the commerce of other nations with Great Britain, is repugnant to her own policy, and prohibited by her own laws, and which can never be enforced on any nation without a subversion of its sovereignty and independence.

I have the honour to be, &c.

JAMES MONROE.

Aug. J. Foster, Esq. &c. &c.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JAN. 17, 1812.

I LAY before Congress a letter from the envoy extraordinary and minister plenipotentiary of Great Britain to the Secretary of State, with the answer of the latter.

JAMES MADISON.

Mr. Foster to Mr. Monroe. Washington, Dec. 28, 1811.

SIR,—I have been informed by Mr. Morier, that so long ago as the 3d of last January, in consequence of a written communication from sir James Craig, his majesty's governor general and commander in chief in Canada, dated the 25th of November, 1810, acquainting him with his suspicions of its being the intention of some of the Indian tribes, from the great fermentation among them, to make an attack upon the United States, and authorizing him to impart his suspicions to the American Secretary of State ; he had actually done so verbally to Mr. Smith your predecessor in office, and on searching among the archives of this mission, I have found the letter alluded to of sir James Craig, by which he did authorize Mr. Morier to make the communication in question, as well as a memorandum of its having so been made, as also an express declaration of sir James Craig, that although he doubted there would not be wanting persons who would be ready to attribute the movements of the Indians to the influence of the British government, yet that his department were actually making every exertion in their power to assist in preventing their attempts.

This evidence, sir, of a friendly disposition to put the United States government on their guard against the machinations of the savages, and even to aid in preventing the calamity which has taken place, is so honourable to the governor general of Canada, and so clearly in contradiction to the late unfounded reports which have been spread of a contrary nature, that I cannot resist the im-

pulse I have to draw your attention towards it, not that I conceive, however, that it was necessary to produce this proof to the United States government of the falsity of such reports, which the character of the British nation, and the manifest inutility of urging the Indians to their destruction, should have rendered improbable, but in order that you may be enabled, in case it shall seem fitting to you, by giving publicity to this letter, to correct the mistaken notions on the subject, which have unfortunately found their way even among persons of the highest respectability, only, as I am convinced, from their having been misinformed.

I have the honour to be, &c.

AUGUSTUS J. FOSTER.

The Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster. Department of State, Jan. 9, 1812.

SIR,—I have had the honour to receive your letter of the 28th ult. disavowing any agency of your government in the hostile measures of the Indian tribes towards the United States. If the Indians desired any encouragement from any persons in those measures of hostility, it is very satisfactory to the President to receive from you an assurance that no authority or countenance was given to them by the British government.

I have the honour to be, &c.

JAMES MONROE.

His Excellency Augustus J. Foster, &c. &c.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. MARCH 9, 1812.

I LAY before Congress copies of certain documents which remain in the department of state. They prove

that, at a recent period, whilst the United States, notwithstanding the wrongs sustained by them, ceased not to observe the laws of peace and neutrality towards Great Britain, and in the midst of amicable professions and negotiations on the part of the British government, through its publick minister here, a secret agent of that government was employed in certain states, more especially at the seat of government in Massachusetts, in fomenting disaffection to the constituted authorities of the nation, and in intrigues with the disaffected, for the purpose of bringing about resistance to the laws, and, eventually, in concert with a British force, of destroying the Union and forming the eastern part thereof into a political connection with Great Britain.

In addition to the effect which the discovery of such a procedure ought to have on the publick councils, it will not fail to render more dear to the hearts of all good citizens, that happy union of these States, which, under Divine Providence, is the guaranty of their liberties, their safety, their tranquillity, and their prosperity.

JAMES MADISON.

A.

Philadelphia, Feb. 20, 1812.

SIR,—Much observation and experience have convinced me, that the injuries and insults with which the United States have been so long and so frequently visited, and which cause their present embarrassment, have been owing to an opinion entertained by foreign states,—“*That in any measure tending to wound their pride, or provoke their hostility, the government of this country could never induce a great majority of its citizens to concur.*” And, as many of the evils which flow from the influence of this opinion on the policy of foreign nations, may be removed by any act that can produce *unanimity among all parties in America*, I voluntarily tender to you, sir, such means as I possess towards promoting so desirable and important an object; which, if accomplished, cannot fail to extinguish, perhaps for ever, those expectations abroad, which may protract indefinitely, an accommodation of existing diffe-

rences, and check the progress of industry and prosperity in this rising empire.

I have the honour to transmit herewith the documents and correspondence relating to an important mission, in which I was employed by sir James Craig, the late governor general of the British provinces in North America, in the winter of the year 1809.

The publication of these papers will demonstrate a fact not less valuable than the good already proposed; it will prove that no reliance ought to be placed on the professions of good faith of an administration, which, by a series of disastrous events, has *fallen* into such hands as a Castle-reagh, a Wellesley or a Liverpool—I should rather say, into the hands of the stupid subalterns, to whom the pleasures, and the indolence of those ministers, have consigned it. In contributing to the good of the United States by an exposition, which cannot (I think) fail to solve and melt all division and disunion among its citizens; I flatter myself with the fond expectation, that when it is made publick in England, it will add one great motive to the many that already exist, to induce that nation to withdraw its confidence from *men, whose political career is a fruitful source of injury and embarrassment in America; of injustice and misery in Ireland; of distress and apprehension in England; and contempt every where.*

In making this communication to you, sir, I deem it incumbent on me, distinctly and unequivocally to state, that I adopt no party views; that I have not changed any of my political opinions; that I neither seek nor desire the patronage, nor countenance of any government, nor of any party; and, that, in addition to the motives already expressed, *I am influenced by a just resentment of the perfidy and dishonour of those who first violated the conditions upon which I received their confidence; who have injured me, and disappointed the expectations of my friends; and left me no choice, but between a degrading acquiescence in injustice, and a retaliation, which is necessary to secure to me my own respect.*

This wound will be felt where it is merited; and if sir James Craig still live, his share of the pain will excite no

sympathy among those who are at all in the secret of our connection.

I have the honour to be, &c. &c.

J. HENRY.

To James Monroe, Esq. Secretary of State.

No. I.

*Mr. Ryland, Secretary to Sir James Craig, Governour
General of Canada, to Mr. Henry.*

Most secret and confidential.

Quebec, January 26, 1809.

MY DEAR SIR,—The extraordinary situation of things at this time in the neighbouring states, has suggested to the governour in chief, the idea of employing you on a secret and confidential mission to Boston, provided an arrangement can be made to meet the important end in view, without throwing an absolute obstacle in the way of your professional pursuits. *The information and political observations heretofore received from you, were transmitted by his excellency to the secretary of state, who has expressed his particular approbation of them; and there is no doubt that your able execution of such a mission as I have above suggested, would give you a claim, not only on the governour general, but on his majesty's ministers, which might eventually contribute to your advantage. You will have the goodness therefore to acquaint me, for his excellency's information, whether you could make it convenient to engage in a mission of this nature, and what pecuniary assistance would be requisite to enable you to undertake it without injury to yourself.*

At present it is only necessary for me to add, that the governour would furnish you with a cypher for carrying on your correspondence; and that in case the leading party in any of the states wished to open a communication with this government, their views might be communicated through you.

I am with great truth and regard, &c.

HERMAN W. RYLAND.

No. II.

Sir James Craig, Governour General of Canada, to Mr. Henry.

Most secret and confidential.

Quebec, February 6, 1809.

SIR,—As you have so readily undertaken the service, which I have suggested to you, as being likely to be attended with much benefit to the publick interests, I am to request that with your earliest conveniency you will proceed to Boston.

The principal object that I recommend to your attention, is the endeavour to obtain the most accurate information of the true state of affairs in that part of the Union, which from its wealth, the number of its inhabitants, and the known intelligence and ability of several of its leading men, must naturally possess a very considerable influence over, and will indeed probably lead the other eastern states of America in the part that they may take at this important crisis.

I shall not pretend to point out to you the mode by which you will be most likely to obtain this important information; your own judgment, and the connections which you may have in the town, must be your guide. I think it however necessary to put you on your guard against the sanguineness of an aspiring party; the federalists as I understand, have at all times discovered a leaning to this disposition, and their being under its particular influence at this moment, is the more to be expected from their having no ill founded ground for their hopes of being *nearer the attainment of their object* than they have been for some years past.

In the general terms which I have made use of in describing the object which I recommend to your attention, it is scarcely necessary that I should observe, I include the state of the publick opinions, both with regard to their internal politicks, and to the probability of a war with England; the comparative strength of the two great parties into which the country is divided, and the views and designs of that which may ultimately prevail.

It has been supposed that if the federalists of the eastern states should be successful in obtaining that decided influence, which may enable them to direct the publick opinion, it is not improbable that rather than submit to a continuance of the difficulties and distress to which they are now subject, they will exert that influence to bring about a separation from the general Union. The earliest information on this subject may be of great consequence to our government, as it may also be, that it should be informed, *how far in such an event they would look up to England for assistance or be disposed to enter into a connection with us.*

Although it would be highly inexpedient that you should in any manner appear as an avowed agent, yet if you could contrive to obtain an intimacy with any of the leading party, it may not be improper that you should insinuate, though with great caution, that *if they should wish to enter into any communication with our government through me, you are authorized to receive any such, and will safely transmit it to me*; and as it may not be impossible that they should require some document by which they may be assured that you are really in the situation in which you represent yourself, I enclose a credential to be produced in that view; but I most particularly enjoin and direct that you do not make any use of this paper, unless a desire to that purpose should be expressed, and *unless you see good ground for expecting that the doing so may lead to a more confidential communication than you can otherwise look for.*

In passing through the state of Vermont, you will of course exert your endeavours to procure all the information that the short stay you will probably make there will admit of. You will use your own discretion as to delaying your journey, with this view, more or less in proportion to your prospects of obtaining any information of consequence.

I request to hear from you as frequently as possible; and as letters directed to me might excite suspicion, it may be as well, that you put them under cover to Mr. ———, and as even the addressing letters always to the same person might attract notice, I recommend your sometimes addressing your packet to the chief justice

here, or occasionally, though seldom, to Mr. Ryland, but never with the addition of his official description.

I am, &c.

J. H. CRAIG.

No. III.

Copy of the "Credential" given by Sir James Craig to Mr. Henry.

[SEAL.]

THE bearer, Mr. John Henry, is employed by me, and full confidence may be placed in him for any communication which any person may wish to make to me, *in the business committed to him*. In faith of which, I have given him this under my hand and seal at Quebec, this 6th day of February, 1809.

J. H. CRAIG.

No. IV.

COPIES OF THE LETTERS FROM MR. HENRY TO SIR JAMES CRAIG, RELATING TO HIS MISSION TO THE UNITED STATES, IN THE YEAR 1809.

No. 1.

Answer to the Letter of Mr. Secretary Ryland, proposing the Mission, &c. Montreal, January 31, 1809.

SIR,—I have to acknowledge the favour of your letter, of the 26th inst. written by the desire of his excellency, the governour in chief; and hasten to express through you to his excellency, my readiness to comply with his wishes.

I need not add how very flattering it is to receive from his excellency, the assurance of the approbation of his majesty's secretary of state, for the very humble services that I may have rendered.

If the nature of the service in which I am to be engaged, will require no other disbursements than for my individual

expenses, I do not apprehend that these can exceed my private resources.

I shall be ready to take my departure before my instructions can be made out.

I have the honour, &c.

J. H.

No. 2.

To His Excellency the Governour General, &c. in answer to his Letter of Instructions, &c. &c. Montreal, February 10, 1809.

SIR,—I have the honour to acknowledge the receipt of your excellency's letter of instructions, the letter of credence, and the cypher for carrying on my correspondence. I have bestowed much pains upon the cypher, and am, notwithstanding this, deficient in some points which might enable me to understand it clearly. I have compared the example with my own exemplification of the cypher, and find a difference in the results; and as the present moment seems favourable to the interference of his majesty's government, in the measures pursued by the federal party in the northern states, and more especially as the assembly of Massachusetts is now in session, I think it better to set forward immediately, than wait for any farther explanation of the means of carrying on a secret correspondence, which the frequency of safe private conveyances to Canada will render almost wholly unnecessary. Should it, however, be necessary at any time, I take leave to suggest that the index alone furnishes a very safe and simple mode. In it, there is a number for every letter in the alphabet, and particular numbers for particular phrases; so that when I do not find in the index the particular word I want, I can spell it with the figures which stand opposite to the letters. For example, if I want to say that "troops are at Albany," I find under the letter "T," that number 16 stands for "troops," and number 125 for "Albany." The intervening words "*are at*" I supply by figures corresponding with the letters in these words.

It will be necessary to provide against accident, by addressing the letters to Mr. —, of Montreal, with a small mark on the corner of the envelop, which he will

understand. When he receives it, he will then address the enclosure to your excellency, and send it from Montreal by mail. I will be careful not to address your excellency in the body of the letter, nor sign my name to any of them. They will be merely designated by the initials A. B.

If this mode should in any respect appear exceptionable, your excellency will have the goodness to order a more particular explanation of the card. It would reach me in safety enclosed to — Boston.

I have the honour, &c.

J. H.

No. 3.

Burlington, Vermont, February 14, 1809.

SIR,—I have remained here two days, in order fully to ascertain the progress of the arrangements heretofore made, for organizing an efficient opposition to the general government, as well as to become acquainted with the opinions of the leading people, relative to the measures of that party which has the ascendant in the national councils.

On the subject of the embargo laws, there seems to be but one opinion: namely, that they are unnecessary, oppressive, and unconstitutional. It must also be observed, that the execution of them is so invidious, as to attract towards the officers of government, the enmity of the people; which is, of course, transferable to the government itself; so that, in case the state of Massachusetts should take any bold step towards resisting the execution of these laws, it is highly probable, that it may calculate upon the hearty co-operation of the people of Vermont.

I learn that the governour of this state is now visiting the towns in the northern section of it; and makes no secret of his determination, as commander in chief of the militia, to refuse obedience to any command from the general government, which can tend to interrupt the good understanding that prevails between the citizens of Vermont and his majesty's subjects in Canada. It is farther intimated, that in case of a war, he will use his influence to preserve this state *neutral*, and resist, with all the force

he can command, any attempt to make it a party. I need not add, that, if these resolutions are carried into effect, the state of Vermont may be considered as an ally of Great Britain.

To what extent the sentiments which prevail in this quarter, exist in the neighbouring states, or even in the eastern section of this state, I am not able to conjecture. I only can say, with certainty, that the leading men of the federal party act in concert; and, therefore infer, that a common sentiment pervades the whole body, throughout New England.

I have seen a letter from a gentleman now at Washington, to his correspondent in this place: and as its contents may serve to throw some light on passing events there, I shall send either the original or a copy with this despatch. The writer of the letter is a man of character and veracity; and whether competent or not to form correct opinions himself, is probably within the reach of all the knowledge that can be obtained by the party to which he belongs.

It appears by his statement that there is a very formidable majority in Congress on the side of the administration; notwithstanding which, there is every reason to hope that the northern states, in their distinct capacity, will unite and resist by force, a war with Great Britain. In what mode this resistance will first show itself, is probably not yet determined upon; and may, in some measure, depend upon the reliance that the leading men may place upon assurances of support from his majesty's representative in Canada; and as I shall be on the spot to tender this whenever the moment arrives that it can be done with effect, there is no doubt that all their measures may be made subordinate to the intentions of his majesty's government. Great pains are taken by the men of talents and intelligence to confirm the fears of the common people, as to the concurrence of the southern democrats in the projects of France; and every thing tends to encourage the belief, that the dissolution of the confederacy will be accelerated by the spirit which now actuates both political parties.

I am, &c.

A. B.

No. 4.

Windsor, Vermont, February 19, 1809.

SIR,—My last (No. 3) was written at Burlington, the principal town in the northern part of the state of Vermont. I am now at the principal town in the eastern section.

The fallacy of men's opinions, when they act under the influence of sensibility and are strongly excited by those hopes which always animate a rising party, led me to doubt the correctness of opinions which I received in the northern section of this state ; which, from its contiguity to Canada and necessary intercourse with Montreal, has a stronger interest in promoting a good understanding with his majesty's government : therefore, since my departure from Burlington, I have sought every favourable occasion of conversing with the democrats on the probable result of the policy adopted by the general government. The difference of opinion is thus expressed :

The federal party declare that, in the event of a war, the state of Vermont will treat separately for itself with Great Britain, and support, to the utmost, the stipulations into which it may enter without any regard to the policy of the general government. The democrats, on the other hand, assert that, in such a case as that contemplated, the people would be nearly divided into equal numbers ; one of which would support the government, if it could be done without involving the people in a civil war, but, at all events, would risk every thing in preference to a coalition with Great Britain. This difference of opinion is not to be wholly ascribed to the prejudices of party. The people in the eastern section of Vermont, are not operated upon by the same hopes and fears as those on the borders of the British colony. They are not dependent on Montreal for the sale of their produce, nor the supply of foreign commodities. They are not apprehensive of any serious dangers or inconvenience from a state of war ; and although they admit that the governour, council, and three-fourths of the representation in Congress are of the federal party, yet they do not believe that the state would stand alone and resist the national government. They do not, however, deny that should the state of Vermont con-

tinue to be represented as it is at present, it would, in all probability, unite with the neighbouring states in any serious plan of resistance to a war, which it might seem expedient to adopt. This, I think, is the safer opinion for you to rely on, if, indeed, reliance ought to be placed on any measure depending upon the will of the rabble, which is ever changing, and must ever be marked with ignorance, caprice, and inconstancy. As the crisis approaches, the difficulty of deciding upon an hazardous alternative will increase; and, unfortunately, there is not in Vermont any man of commanding talents, capable of attracting *general confidence*, of infusing into the people his own spirit, and amidst the confusion of conflicting opinions, dangers and commotion, competent to lead in the path of duty or safety. The governour is an industrious, prudent man, and has more personal influence than any other: but his abilities are not suited to the situation in which a civil war would place him.

I am, &c.

A. B.

No. 5.

Amherst, N. Hamp. February 23, 1809.

SIR,—A gentleman going direct to Canada, affords a safe and favourable opportunity of giving you some further account of my progress.

I will not make use of the post offices when I can avoid it; because private occasions supersede the necessity of writing in cypher, and the contempt of decency and principle, which forms part of the morals of the subaltern officers of a democracy, would incline them to break a seal with the same indifference that they break their words, when either curiosity or interest is to be indulged.

I have not had sufficient time nor evidence to enable me to form any opinion for myself of the lengths to which the federal party will carry their opposition to the national government, in the event of a war. Much may be inferred from the result of the elections of governours which, within two months, will be made in the states of Massachusetts, New Hampshire, and Rhode Island. From all I know

and all I can learn of the general government, I am not apprehensive of an immediate war. The embargo is the favourite measure; and it is probable that other means will be employed to excite England to commit some act of hostility, for the sole purpose of placing the responsibility of war on that country: this I most particularly recommend to the consideration of ministers. The dread of opposition and of the loss of popularity, will certainly keep the ruling party at Washington inactive. They will risk any thing but the loss of power; and they are well aware that their power would pass away with the first calamity which their measures might bring upon the common people; (from whom that power emanates) unless, indeed, they could find a sufficient excuse in the conduct of Great Britain. This impression cannot be too deeply felt by his majesty's ministers; nor too widely spread throughout the British nation. It will furnish a sure guide in every policy that may be adopted towards the United States.

I have the honour to be, &c.

A. B.

No. 6.

Boston, March 5, 1809.

SIR,—I am favoured with another opportunity of writing to you by a private conveyance, and think it probable, at this season, that the frequency of these will render it unnecessary to write to you in cypher.

It does not yet appear necessary that I should discover to any person the purpose of my visit to Boston; nor is it probable that I shall be compelled, for the sake of gaining more knowledge of the arrangements of the federal party in these states, to avow myself as a regular authorized agent of the British government, even to those individuals who would feel equally bound with myself to preserve, with the utmost inscrutability, so important a secret from the publick eye. *I have sufficient means of information to enable me to judge of the proper period for offering the co-operation of Great Britain, and opening a correspondence between the governour general of British America and those individuals who, from the part they take in the opposition to the national government, or the influence they may possess in*

any new order of things that may grow out of the present differences, should be qualified to act on behalf of the northern states. An apprehension of any such state of things as is pre-supposed by these remarks begins to subside, since it has appeared by the conduct of the general government that it is seriously alarmed at the menacing attitude of the northern states. But although it is believed that there is no probability of an immediate war, yet no doubts are entertained that Mr. Madison will fall upon some new expedient to bring about hostilities. What these may be can only be deduced from what appears to be practicable. A *non-intercourse* with England and France will probably supersede the embargo; which, by opening with the rest of Europe a partial legitimate commerce, and affording strong temptations to that which is illegal, will expose the vessels to capture, detention and embarrassment; will justify the present policy, and produce such a degree of irritation and resentment, as will enable the government of this country to throw the whole blame and responsibility of war from its own shoulders upon those of the British ministry. If in this the party attached to France should calculate with correctness, and the commerce of New England should greatly suffer, the merchants being injured and discouraged, would not only acquiesce in the restrictive system, but even submit to war. On the other hand, should the small traffick permitted by a *non-intercourse* law be lucrative and uninterrupted, the people would be clamorous for more, and soon compel the government to restore the friendly relations between the two countries.

While I offer my opinion upon this subject, I cannot but express a strong hope, that if any terms should be proposed by either government to which the other might think proper to accede, that a principal motive to the adjustment of differences, should be understood to arise from the amicable disposition of the eastern states, particularly of the state of Massachusetts. This, as it would increase the popularity of the friends of Great Britain, could not fail to promote her interests. If it could not be done formally and officially nor in a correspondence between ministers, still, perhaps, the administration in the parliament of Great Britain, might take that ground, and the

suggestion would find its way into the papers both in England and America.

It cannot be too frequently repeated, that this country can only be governed and directed by the influence of opinion: as there is nothing permanent in its political institutions, nor are the populace under any circumstances to be relied on, when measures become inconvenient and burdensome. I will soon write again; and am yours, &c.

A. B.

No. 7.

[In cypher.]

Boston, March 7, 1809.

SIR,—I have now ascertained with as much accuracy as possible, the course intended to be pursued by the party in Massachusetts that is opposed to the measures and politicks of the administration of the general government.

I have already given a decided opinion that a declaration of war is not to be expected: but, contrary to all reasonable calculation, should the Congress possess spirit and independence enough, to place their popularity in jeopardy by so strong a measure, the legislature of Massachusetts will give the tone to the neighbouring states; will declare itself permanent, until a new election of members; invite a congress to be composed of delegates from the federal states, and erect a separate government for their common defence and common interest. This congress would probably begin by abrogating the offensive laws and adopting a plan for the maintenance of the power and authority thus assumed. They would, by such an act, be in a condition to make or receive proposals from Great Britain; and I should seize the first moment to open a correspondence with your excellency. Scarce any other aid would be necessary, and perhaps none required than a few vessels of war, from the Halifax station, to protect the maritime towns from the little navy which is at the disposal of the national government. What permanent connection between Great Britain and this section of the Republick would grow out of a civil commotion, such as

might be expected, no person is prepared to describe ; but it seems that a strict alliance must result of necessity. At present, the opposition party confine their calculations merely to resistance ; and I can assure you that, at this moment, they do not freely entertain the project of withdrawing the eastern states from the Union, finding it a very unpopular topick ; although a course of events, such as I have already mentioned, would inevitably produce an incurable alienation of the New England from the southern states.

The truth is, the common people have so long regarded the constitution of the United States with complacency, that they are now only disposed in this quarter to treat it like a truant mistress, whom they would for a time put away on a separate maintenance, but without further and greater provocation would not absolutely repudiate.

It will soon be known in what situation publick affairs are to remain, until the meeting of the new Congress in May ; at which time also this legislature will again assemble. The two months that intervene will be a period of much anxiety.

In all I have written I have been careful not to make any impression, analogous to the enthusiastick confidence, entertained by the opposition, nor to the hopes and expectations that animate the friends of an alliance between the northern states and Great Britain.

I have abstracted myself from all the sympathies these are calculated to inspire : because, notwithstanding that I feel the utmost confidence in the integrity of intention of the leading characters in this political drama, I cannot forget that they derive their power from a giddy inconstant multitude ; who, unless, in the instance under consideration, they form an exception to all general rules and experience, will act inconsistently and absurdly.

I am yours, &c.

A. B.

No. 8.

Boston, March 9, 1809.

SIR,—In my letter, No. 6, I took the liberty to express my opinion of the probable effect of the non-intercourse

VOL. VIII.

35

law, intended to be enacted; and of the mode by which Great Britain may defeat the real intention of the American government in passing it. But as the sort of impunity recommended, might, in its application to every species of commerce that would be carried on, be deemed by Great Britain a greater evil than war itself, a middle course might easily be adopted, which would deprive France of the benefits resulting from an intercourse with America, without in any great degree irritating the maritime states.

The high price of all American produce in France, furnishes a temptation which mercantile avarice will be unable to resist. The consequence is obvious. But if instead of condemning the vessels and cargoes which may be arrested in pursuing this prohibited commerce, they should be compelled to go into a British port, and there permitted to sell them, I think the friends of England in these states would not utter a complaint. Indeed I have no doubt, that if, in the prosecution of a lawful voyage, the British cruisers should treat the American ships in this manner, their owners would, in the present state of the European markets, think themselves very fortunate; as it would save them the trouble and expense of landing them in a neutral port, and from thence, re-shipping them to England, now the best market in Europe, for the produce of this country. The government of the United States would probably complain, and Bonaparte become peremptory; but even that would only tend to render the opposition in the northern states more resolute, and accelerate the dissolution of the confederacy. The generosity and justice of Great Britain would be extolled, and the commercial states exult in the success of individuals over a government, inimical to commerce, and to whose measures they can no longer submit with patient acquiescence. The elections are begun; and I presume no vigilance or industry will be remitted to ensure the success of the federal party.

I am, &c.

A. B.

P. S. Intelligence has reached Boston that a non-intercourse law has actually passed, and that Martinique has surrendered to the British forces.

No. 9.

Boston, March 13, 1809.

SIR,—You will perceive from the accounts that will reach you in the publick papers, both from Washington and Massachusetts, that the federalists of the northern states, have succeeded in making the Congress believe; that with such an opposition as they would make to the general government, a war must be confined to their own territory, and might be even too much for that government to sustain. The consequence is, that after all the parade and menaces with which the session commenced, it has been suffered to end without carrying into effect any of the plans of the administration, except the interdiction of commercial intercourse with England and France; an event that was anticipated in my former letters.

Under what new circumstances the Congress will meet in May, will depend on the state elections, and the changes that may in the mean time take place in Europe. With regard to Great Britain, she can scarce mistake her true policy in relation to America. If peace be the first object, every act which can irritate the maritime states ought to be avoided; because the prevailing disposition of these will generally be sufficient to keep the government from hazarding any hostile measure. If a war between America and France be the grand desideratum, something more must be done: an indulgent and conciliatory policy must be adopted, which will leave the democrats without a pretext for hostilities; and Bonaparte, whose passions are too hot for delay, will probably compel this government to decide, which of the two great belligerents is to be its enemy. To bring about a separation of the States, under distinct and independent governments, is an affair of more uncertainty; and however desirable, cannot be effected but by a series of acts and a long continued policy, tending to irritate the southern and conciliate the northern people. The former are an agricultural, the latter a commercial people. The mode of cherishing and depressing either is too obvious to require illustration. This I am aware is an object of much interest in Great Britain; as it would for ever secure the integrity of his majesty's possessions on this continent; and make the two governments, or what-

ever number the present confederacy might form into, as useful and as much subject to the influence of Great Britain, as her colonies can be rendered. But it is an object only to be attained by slow and circumspect progression; and requires for its consummation more attention to the affairs which agitate and excite parties in this country, than Great Britain has yet bestowed upon it.

An unpopular war, that is a war produced by the hatred and prejudices of one party, but against the consent of the other party, can alone produce a sudden separation of any section of this country from the common head.

At all events it cannot be necessary to the preservation of peace, that Great Britain should make any great concession at the present moment; more especially as the more important changes that occur in Europe, might render it inconvenient for her to adhere to any stipulations in favour of neutral maritime nations.

Although the non-intercourse law affords but a very partial relief to the people of this country, from the evils of that entire suspension of commerce to which they have reluctantly submitted for some time past, I lament the repeal of the embargo, because it was calculated to accelerate the progress of these States towards a revolution that would have put an end to the only republic that remains to prove, that a government founded on political equality, can exist in a season of trial and difficulty, or is calculated to ensure either security or happiness to a people.

I am, &c.

A. B.

No. 10.

Boston, March 29, 1809.

SIR,—Since my letter of the 13th, nothing has occurred which I thought worthy of a communication.

The last weeks of this month, and the first of April, will be occupied in the election of governours and other executive officers in the New England states.

The federal candidate in New Hampshire is already elected by a majority of about one thousand votes. His competitor was a man of large fortune, extensive connec-

tions and inoffensive manners. These account for the smallness of the majority.

In Connecticut no change is necessary, and none is to be apprehended.

In Rhode Island it is of no consequence of what party the governor is a member; as he has neither will nor military power, being merely president of the council.

In Massachusetts it is certain that the federal candidate will succeed.

A few weeks will be sufficient in order to determine the relative strength of parties, and convince Mr. Madison that a war with Great Britain is not a measure upon which he dare venture. Since the plan of an organized opposition to the projects of Mr. Jefferson was put into operation, the whole of the New England states have transferred their political power to his political enemies; and the reason that he has still so many adherents is, that those who consider the only true policy of America to consist in the cultivation of peace, have still great confidence, that nothing can force him (or his successor, who acts up to his system or rather is governed by it) to consent to war. They consider all the menaces and "dreadful note of preparation" to be a mere finesse, intended only to obtain concessions from England on cheap terms. From every sort of evidence, I confess I am myself of the same opinion; and am fully persuaded that this farce, which has been acting at Washington, will terminate in a full proof of the imbecility and spiritless temper of the actors. A war attempted without the concurrence of both parties, and the general consent of the northern states, which constitute the bone and muscle of the country, must commence without hope, and end in disgrace. It should therefore be the peculiar care of Great Britain to foster divisions between the north and south; and by succeeding in this, she may carry into effect her own projects in Europe, with a total disregard of the resentments of the democrats of this country.

I am, &c.

A. B.

No. 11.

Boston, April 13, 1809.

SIR,—I send to Mr. R. a pamphlet, entitled "Suppressed Documents." The notes and comments were written by the gentleman who has written the Analysis, which I sent by a former conveyance. These works have greatly contributed to excite the fears of the men of talents and property; who now *prefer the chance of maintaining their party by open resistance, and a final separation*, to an alliance with France, and a war with England. So that, should the government unexpectedly, and contrary to all reasonable calculation, attempt to involve the country in a measure of that nature, I am convinced (now that the elections have all terminated favourably,) that none of the New England states would be a party in it. But as I have repeatedly written, the general government does not seriously entertain any such desire or intention. Had the majority in the New England states continued to approve of the publick measures, it is extremely probable that Great Britain would now have to choose between war and concession. But the aspect of things in this respect, is changed; and a war would produce an incurable alienation of the eastern states, and bring the whole country in subordination to the interests of England, whose navy would prescribe and enforce the terms upon which the commercial states should carry, and the agricultural states export their surplus produce. All this is as well known to the democrats as to the other party; therefore, they will avoid a war, at least, until the whole nation is unanimous for it. Still, when we consider of what materials the government is formed, it is impossible to speak with any certainty of their measures. The past administration, in every transaction, presents to the mind only a muddy commixture of folly, weakness and duplicity. The spell by which the nations of Europe has been rendered inert and inefficient, when they attempted to shake it off, has stretched its shadows across the Atlantick, and made a majority of the people of these States alike blind to duty and to their true interests.

I am, &c.

A. B.

No. 12.

Boston, April 26, 1809.

SIR,—Since my letter No. 11, I have had but little to communicate.

I have not yet been able to ascertain with sufficient accuracy, the relative strength of the two parties in the legislative bodies in New England.

In all of these states, however, governours have been elected out of the federal party; and even the southern papers indicate an unexpected augmentation of federal members in the next Congress.

The correspondence between Mr. Erskine and the Secretary of State, at Washington, you will have seen before this can reach you. It has given much satisfaction to the federal party here, because it promises an exemption from the evil they most feared, (a war with England) and justifies their partiality towards Great Britain; which they maintain, was founded upon a full conviction of her justice, and sincere disposition to preserve peace. Even the democrats affect to be satisfied with it; because, as they insist, it proves the efficacy of the restrictive system of Mr. Jefferson.

But the great benefit that will probably result from it, will be, that Bonaparte may be induced to force this country from her neutral position. Baffled in his attempts to exclude from the continent the manufactures of Great Britain, he will, most likely confiscate all American property in his dominions and dependencies, and declare war. Nothing could more than this contribute to give influence and stability to the British party. The invidious occurrences of the rebellion would be forgotten in the resentment of the people against France; and they would soon be weaned from that attachment to her, which is founded on the aid that was rendered to separate from the mother country. While Great Britain waits for this natural, I might say necessary result of the negotiation, would it not be extremely inexpedient to conclude a treaty with the American government. Every sort of evidence and experience prove, that the democrats consider their political ascendancy in a great measure dependent on the hostile spirit that they can keep alive towards

Great Britain ; and recent events demonstrate, that their conduct will be predicated upon that conviction ; it is, therefore, not to be expected that they will meet with corresponding feelings, a sincere disposition on the part of England to adjust all matters in dispute. They are at heart mortified and disappointed, to find that Great Britain has been in advance of the French government, in taking advantage of the provisional clauses of the non-intercourse law ; and if they show any spirit at the next session of Congress towards France, it will be only because they will find Bonaparte deaf to entreaty and insensible of past favours ; or that they may think it safer to float with the tide of public feeling, which will set strongly against him, unless he keep *pari passu* with England, in a conciliatory policy.

I am, &c.

A. B.

No. 13.

Boston, May 5, 1809.

SIR,—Although the recent changes that have occurred quiet all apprehension of war, and consequently *lessen all hope of a separation of the States*, I think it necessary to transmit by the mail of each week, a sketch of passing events.

On local politicks I have nothing to add ; and as the parade that is made in the *National Intelligencer*, of the sincere disposition of Mr. Madison to preserve amicable relations with Great Britain, is, in my opinion, calculated to awaken vigilance and distrust, rather than inspire confidence, I shall (having nothing more important to write about) take leave to examine his motives. I am not surprised at his conditional removal of the non-intercourse law with respect to Great Britain ; because it was made incumbent on him by the act of Congress : But the observations made on his friendly disposition towards Great Britain, is a matter of no little astonishment. The whole tenour of his political life, directly, and unequivocally, contradicts them : His speech on the British treaty in '99 : His attempt to pass a law for the confiscation of "British debts" and British property : His commercial resolutions,

grounded apparently on an idea of making America useful as a colony of France: His conduct while Secretary of State; all, form an assemblage of probabilities, tending to convince me, at least, that he does not seriously desire a treaty, in which the rights and pretensions of Great Britain would be fairly recognised. It seems impossible that he should at once divest himself of his habitual animosity and that pride of opinion, which his present situation enables him to indulge; but above all, that he should deprive his friends and supporters of the benefit of those prejudices which have been carefully fostered in the minds of the common people towards England, and which have so materially contributed to invigorate and augment the democratic party. Whatever his real motives may be, it is in this stage of the affair, harmless enough to inquire into the cause of the apparent change. He probably acts under a conviction, that in the present temper of the eastern states a war could not fail to produce a dissolution of the Union; or he may have profited by the mistakes of his predecessor, and is inclined to seize the present opportunity to prove to the world that he is determined to be the president of a nation, rather than the head of a faction; or he has probably gone thus far to remove the impression on the mind of many, that he was under the influence of France in order that he may, with a better grace, and on more tenable grounds, quarrel with Great Britain, in the progress of negotiating a treaty. Whatever his motives may be, I am very certain his party will not support him in any manly and generous policy. Weak men are sure to temporize when great events call upon them for decision, and are sluggish and inert at the moment when the worst of evils is inaction. This is the character of the democrats in the northern states. Of those of the south I know but little.

I am, &c.

A. B.

No 14.

Boston, May 25, 1809.

SIR,—My last was under date of the 5th instant. The unexpected change that has taken place in the feelings of

political men in this country, in consequence of Mr. Madison's prompt acceptance of the friendly proposals of Great Britain, has caused a temporary suspension of the conflict of parties, and they both regard him with equal wonder and distrust. They all ascribe his conduct to various motives, but none believe him to be in earnest.

The state of New York has returned to the assembly a majority of federal members. All this proves, that an anti-commercial faction cannot rule the northern states. Two months ago the state of New York was not ranked among the states that would adopt the policy of that of Massachusetts; and any favourable change was exceedingly problematical.

I beg leave to suggest, that in the present state of things in this country, my presence can contribute very little to the interests of Great Britain. If Mr. Erskine be sanctioned in all he has conceded, by his majesty's ministers, it is unnecessary for me, as indeed it would be unavailing, to make any attempt to carry into effect the original purposes of my mission. While I think it to be my duty to give this intimation to you, I beg it may be understood that I consider myself entirely at the disposal of his majesty's government; and am, &c.

A. B.

No. 15.

Montreal, June 12, 1809.

SIR,—I have the honour to inform your excellency, that I received through Mr. Secretary Ryland your excellency's commands to return to Canada; and after the delays incident to this season of the year in a journey from Boston, arrived here yesterday.

Your excellency will have seen by the papers of the latest dates from the United States, that a formidable opposition is already organized in Congress to the late measures of Mr. Madison; and it is very evident, that if he be sincere in his professions of attachment to Great Britain, his party will abandon him. Sixty-one members have already voted against a resolution to approve of what he has done; and I have no doubt the rest of the democratick party will follow the example as soon as they recover from

the astonishment into which his apparent defection has thrown them.

The present hopes of the federalists are founded on the probability of a war with France; but at all events this party is strong and well organized enough to prevent a war with England.

It would be now superfluous to trouble your excellency with an account of the nature and extent of the arrangements made by the federal party, to resist any attempt of the government unfavourable to Great Britain. They were such as do great credit to their ability and principles; and while a judicious policy is observed by Great Britain, secure her interests in America from decay. My fear of inducing a false security on the part of his majesty's government in their efficiency, and eventual success, may have inclined me to refrain from doing them that justice in my former letters, which I willingly take the present occasion to express.

I trust your excellency will ascribe the style and manner of my communications, and the frequent ambiguities introduced in them, as arising from the secrecy necessary to be observed, and my consciousness that you understood my meaning on the most delicate points, without risking a particular explanation.

I lament that no occasion commensurate to my wishes, has permitted me to prove how much I value the confidence of your excellency, and the approbation already expressed by his majesty's minister.

I have the honour to be, &c.

I CERTIFY, that the foregoing letters are the same referred to in the letter of H. W. Ryland, Esq. dated May 1st, 1809, relating to the mission in which I was employed by sir James Craig, by his letter of instructions, bearing date February 6, 1809.

JOHN HENRY.

No. V.

Mr. Ryland to Mr. Henry. Quebec, May 1, 1809.

MY DEAR SIR,—The news we have received this day from the States, will, I imagine, soon bring you back to us,

and if you arrive at Montreal by the middle of June, I shall probably have the pleasure of meeting you there, as I am going up with sir James and a large suite. The last letters received from you are to the 13th April; the whole are now transcribing for the purpose of being sent home, where *they cannot fail of doing you great credit, and I most certainly hope they may eventually contribute to your permanent advantage.* It is not necessary to repeat the assurance that no effort within the compass of my power shall be wanting to this end.

I am cruelly out of spirits at the idea of old England truckling to such a debased, and accursed government, as that of the United States.

I am greatly obliged to you for the trouble you have taken, in procuring the books, though, if Spain fails, I shall scarcely have heart to look into them. I can add no more now, but that I am, most heartily, and affectionately, yours,

H. W. R.

Mr. Ryland to Mr. Henry. May 4, 1809.

MY DEAR SIR,—You must consider the short letter I wrote to you by the last post as altogether unofficial; but I am now to intimate to you, in a more formal manner, our hope of your speedy return; as the object of your journey seems, for the present, at least, to be at an end. We have London news, by the way of the river, up to the 6th March, which tallies to a day with what we have received by the way of the States. Heartily wishing you a safe and speedy journey back to us, I am, my dear sir, most sincerely yours.

H. W. R.

Have the goodness to bring my books with you, though I shall have little spirit to look into them unless you bring good news from Spain.

No. VI.

Mr. Henry's Memorial to Lord Liverpool, enclosed in a Letter to Mr. Peel, of the 13th June, with a copy of that Letter.

THE undersigned most respectfully submits the following statement and memorial to the earl of Liverpool ;

Long before, and during the administration of your lordship's predecessor, the undersigned bestowed much personal attention to the state of parties, and to the political measures in the United States of America * * *

Soon after the affair of the Chesapeake frigate, when his majesty's governour general of British America, had reason to believe that the two countries would be involved in a war, and had submitted to his majesty's ministers the arrangements of the English party in the United States, for an efficient resistance to the general government, which would probably terminate in a separation of the northern states from the general confederacy, he applied to the undersigned to undertake a mission to Boston, where the whole concerns of the opposition were managed. The object of the mission was, to promote and encourage the federal party to resist the measures of the general government ; to offer assurances of aid and support from his majesty's government of Canada ; and to open a communication between the leading men engaged in that opposition and the governour general, upon such a footing as circumstances might suggest ; and finally, to render the plans then in contemplation, subservient to the views of his majesty's government.†

The undersigned undertook the mission, which lasted from the month of January to the ~~month~~ of June, inclusive, during which period * * * *

* * * * those publick acts and legislative resolutions of the assemblies of Massachusetts and Connecticut were passed, which kept the general government of the United States in check, and deterred it from carrying into execution the measures of hostility with which Great Britain was menaced.

† Vide the despatches of sir J. Craig in June, 1806.

For his services on the occasions herein recited, and the loss of time, and expenses incurred, the undersigned neither sought nor received any compensation, but trusted to the known justice and liberality of his majesty's government, for the reward of services which could not, he humbly conceives, be estimated in pounds, shillings and pence. On the patronage and support which was promised in the letter of sir J. Craig, under date of the 26th January, 1809, (wherein he gives an assurance "that the former correspondence and political information transmitted by the undersigned, had met with the particular approbation of his majesty's secretary of state; and that his execution of the mission (proposed to be undertaken in that letter) would give him a claim not only on the governor general but on his majesty's ministers,") the undersigned has relied; and now most respectfully claims, in whatever mode the earl of Liverpool may be pleased to adopt.

The undersigned most respectfully takes this occasion to state, that sir J. Craig promised him an employment in Canada, worth upwards of one thousand pounds a year, by his letter (herewith transmitted) under date, September 13, 1809, which he has just learned has, in consequence of his absence, been given to another person. The undersigned abstains from commenting on this transaction; and most respectfully suggests that the appointment of judge advocate general of the province of Lower Canada, with a salary of five hundred pounds a year, or a consulate in the United States sine curia would be considered by him as a liberal discharge of any obligation that his majesty's government may entertain in relation to his services.

Copy of a Letter to Mr. Peel, enclosing the Foregoing.

SIR,—I take leave to enclose to you a memorial addressed to the earl of Liverpool, and beg you will have the goodness either to examine the documents in your office or those in my own possession, touching the extent and legitimacy of my claim.

Mr. Ryland, the secretary of sir J. Craig, is now in London, and from his official knowledge of the transactions and facts, alluded to in the memorial, can give any information required on that subject.

I have the honour, &c.

J. H.

June 13, 1811.

No. VII.

*Mr. Peel, Secretary to Lord Liverpool, to Mr. Henry.
Downing Street, June 28, 1811.*

SIR,—I have not failed to lay before the earl of Liverpool the memorial, together with its several enclosures, which was delivered to me a few days since by general Loft, at your desire.

His lordship has directed me to acquaint you, that he has referred to the correspondence in this office of the year 1808, and finds two letters from sir James Craig, dated April 10, and May 5, transmitting the correspondence that has passed during your residence in the northern states of America, and expressing his confidence in your ability and judgment; but lord Liverpool has not discovered any wish on the part of sir James Craig, that your claims for compensation should be referred to this country, nor indeed is allusion made to any kind of arrangement or agreement, that had been made by that officer with you.

Under these circumstances, and had not sir James Craig determined on his immediate return to England, it would have been lord Liverpool's wish to have referred your memorial to him, as being better enabled to appreciate the ability and success with which you executed a mission undertaken at his desire. Lord Liverpool will however transmit it to sir James Craig's successor in the government, with an assurance, that from the recommendations he has received in your favour, and the opinion he has formed on your correspondence, he is convinced the public service will be benefitted by your active employment in the public situation.

Lord Liverpool will also feel himself bound to give the same assurance to the marquis Wellesley, if there is any

probability that it will advance the success of the application which you have made to his lordship.

I am, &c.

ROBERT PEEL.

J. Henry, Esq. 27, Leicester Square.

No. VIII.

No other Answer than a Despatch to Sir George Prevost, and the Letter marked B.

Mr. Henry to Mr. Peel. 27, Leicester Square. London, September 4, 1811.

SIR,—I have just now learned the ultimate decision of my lord Wellesley, relative to the appointment which I was desirous to obtain, and find that the subsisting relations between the two countries forbid the creating a new office in the United States, such as I was solicitous to obtain. In this state of things, I have not a moment to lose in returning to Canada, and have taken my passage in the last and only ship that sails for Quebec this season. As I have not time to enter de novo into explanations with the gentleman who is in your office; and as I have received assurances from you, in addition to the letter of my lord Liverpool, of the 27th of June, that "his lordship would recommend me to the governour of Canada, for the first vacant situation that I would accept," I beg the favour of you, to advise me how I am to get that recommendation, without loss of time.

I have the honour, &c.

J. H.

B. No. IX.

Copy of the Letter written by Lord Liverpool to Sir George Prevost, furnished to Mr. Henry by the under Secretary of State—Original in the Despatch to the Governour General, dated Downing Street, Sept. 16, 1811.

SIR,—Mr. Henry, who will have the honour of delivering this letter, is the gentleman who addressed to me memorial, a copy of which I herewith transmit, and to

whom the accompanying letter from Mr. Peel was written by my direction.

In compliance with his request, I now fulfil the assurance which I have given, of stating to you my opinion of the ability and judgment which Mr. Henry has manifested on the occasions mentioned in his memorial, and of the benefit the publick service might derive from his active employment in any publick situation, in which you should think proper to place him.

I am, &c.

LIVERPOOL.

Sir George Prevost, Bart.

No. X.

Mr. Ryland to Mr. Henry. Tuesday Evening, July 2, 1811.

DEAR HENRY,—It gives me real pleasure to find, that the apprehension I had formed, with respect to the fulfilment of your expectations, is likely to prove erroneous. As every thing which passed relative to your mission was in writing, I think you will do well in submitting to Mr. Peel all the original papers. I, myself, could give no other information relative to the subject, than what they contain, as you and I had no opportunity of any verbal communication respecting it, till after your mission terminated, and I never wrote you a letter in the governour's name which had not previously been submitted to his correction.

The impression I had received of your character and abilities made me anxious to serve you, even before I had the pleasure of a personal acquaintance with you, and the same desire has operated on me ever since; I am, therefore, entitled to hope, that any opinion which I may have given you as to your best mode of obtaining an employment under government, will be received with the same candour that gave rise to it. I think you will do well to persevere as you propose. I have no doubt that every letter from you, which Sir James sent home, will be found in Mr. Peel's office, as

the established practice there is, to bind the despatches and enclosures, yearly, up together.

Sincerely wishing you every success, I am, &c.

H. W. RYLAND.

B.

Lord Liverpool's Despatch to Sir George Prevost, with its Enclosures. Downing Street, Sept. 16, 1811.

SIR,—Mr. Henry, who will have the honour of delivering this letter, is the gentleman who addressed to me the memorial, a copy of which I herewith transmit, and to whom the accompanying letter from Mr. Peel was written by my direction.

In compliance with his request, I now fulfil the assurance which I have given of stating to you my opinion of the ability and judgment which Mr. Henry has manifested on the occasions mentioned in his memorial, and of the benefit the publick service might derive from his active employment in any publick situation in which you should think proper to place him.

I am, &c.

LIVERPOOL.

ACCOMPANYING LORD LIVERPOOL'S DESPATCH TO SIR
GEORGE PREVOST.

DOCUMENT No. I.

Extract of the Official Letter of Sir James Craig, referred to in the Memorial.

Most secret and confidential.

Quebec, January 26, 1809.

MY DEAR SIR,—The extraordinary situation of things at this time in the neighbouring states, has suggested to the governour in chief, the idea of employing you on a secret and confidential mission, provided an arrangement can be made to meet the important end in view, without throwing an absolute obstacle in the way of your professional suits.

The information and political observations heretofore received from you, were transmitted by his excellency to the secretary of state, who has expressed his particular approbation of them; and there is no doubt that your able execution of such a mission as I have above suggested, would give you a claim, not only on the governour general, but on his majesty's ministers, which would eventually contribute to your advantage. At present it is only necessary for me to add, that the governour would furnish you with a cypher for carrying on your correspondence, and in case the leading party in any of the States wished to open a communication with this government, their views might be communicated through you.

I am, &c.

HERMAN W. RYLAND.

To John Henry, Esq.

ACCOMPANYING LORD LIVERPOOL'S DESPATCH TO SIR
GEORGE PREVOST.

DOCUMENT No. 2.

Extract from General Instructions, referred to in the Memorial. Quebec, February 6, 1809.

SIR,—As you have so readily undertaken the service which I have suggested to you as likely to be attended with much benefit to the publick interests, I am to request that with your earliest conveniency you will proceed to Boston.

The principal object that I recommend to your attention is, the endeavour to obtain the most accurate information of the state of affairs in that part of the Union, which, from its wealth, the number of its inhabitants, and the known intelligence and ability of several of its leading men, must naturally possess a very considerable influence over, and will, indeed, probably lead the other eastern states of America in the part that they may take at this important crisis. I shall not pretend to point out to you the mode by which you will be likely to obtain this important information. Your own judgment and the connections which you have formed must be your guide.

In the general terms which I have made use of, to describe the objects which I recommend to your attention, it is

scarcely necessary to observe, that I include the state of public opinion, both with regard to the internal politics and the probability of a war with England. The comparative strength and views of the two great parties into which the country is divided ; and the views and designs of that which may ultimately prevail.

If the federalists of the eastern states should be successful in obtaining that decided influence which may enable them to direct the public opinion, it is not impossible that rather than submit to a continuance of the difficulties and distress to which they are now subject, they will exert that influence to bring about a *separation from the general Union*. The earliest information on this subject, may be of great consequence to our government, as it may also that it should be informed how far they would in such an event look up to England for assistance and be disposed to enter into a connection with us. These I leave to your judgment and discretion.

J. H. CRAIG.

[The letter of instructions is long. The above are the principal points in it, except as to secrecy]

Copy of Mr. Henry's Memorial accompanying Lord Liverpool's Despatch.

To the right honourable the earl of Liverpool, the undersigned most respectfully submits the following memorial.

Long before, and during the administration of your lordship's predecessor, the undersigned bestowed much personal attention to the state of parties and political measures in the United States of America ; and had an opportunity * * * * * and to write the * * * * * the information transmitted by the undersigned to sir James Craig, and by him to lord Castlereagh, *met with his lordship's approbation* ;† and when the hostile preparations in the United States suggested to sir James Craig

† See the letters of Mr. Henry addressed to the secretary of sir James Craig, and by him transmitted to lord ———, in the month of April, 1808.

‡ See document No. 1, herewith submitted.

the necessity of making corresponding arrangements of precaution and defence, for the security of his majesty's colonies, he applied to the undersigned to undertake a secret and confidential mission to the northern states, to

the party already mentioned, to direct their operations, and transmit regular information of the same, and to endeavour to render their plans subservient to the interests of Great Britain. The undersigned readily undertook the mission, and spent five months in the active and zealous discharge of the duties connected with it

which deterred the general government from the purpose already mentioned, and from a coalition with France; while the information which he transmitted to sir James Craig probably saved the trouble and expense of arming the Canadian militia. All this the undersigned performed without ever showing his commission, or appearing as an authorized agent, from a thorough conviction, that a discovery of his mission would furnish the French party with the means of destroying the influence of the party adhering to Great Britain, in every quarter of America, and enable the general government to go to war upon popular and tenable ground.

In the application of sir James Craig to the undersigned, to undertake the mission aforesaid, he says, "*The information and political observations received from you heretofore were all transmitted to the secretary of state, who has expressed his particular approbation of them, and there is no doubt that your able execution of such a mission as I have above suggested, would give you a claim not only on the governor general (of British America) but on his majesty's ministers, &c.*"

The undersigned being now in England, on his private affairs, and on the eve of departure for America, most humbly and respectfully submits his claims, under the stipulations aforesaid, to the earl of Liverpool, in the confident expectation that his lordship will treat them with

† See documents No. 1 and 2, herewith submitted.

‡ See letter No. 1, of the series transmitted by sir James Craig to the colonial department, under date Feb. 14, 1809.

§ See the remainder of the aforesaid series of letters.

¶ See document No. 1, herewith submitted.

that justice and liberality, which, upon investigation, they may be found to merit.

It may not be superfluous to add, that the undersigned has never received, in any shape whatever, any compensation or patronage for the services he has rendered. This fact, Mr. Ryland, the secretary of sir James Craig, now in London, can vouch for; as well as for the truth of all the matters set forth in this memorial.

I have the honour, &c.

J. HENRY.

27, Leicester Square, June 23, 1811.

Mr. Peel to Mr. Henry, accompanying Lord Liverpool's Despatch to Sir George Prevost. Downing Street, June 28, 1811.

SIR,—I have not failed to lay before the earl of Liverpool the memorial, together with its several enclosures, which was delivered to me a few days since by general Loft, at your desire.

His lordship has directed me to acquaint you in reply, that he has referred to the correspondence in this office, of the year 1808, and finds two letters from sir James Craig, dated 10th April and 5th May, transmitting the correspondence that had passed during your residence in the northern states of America, and expressing his confidence in your ability and judgment; but lord Liverpool has not discovered any wish, on the part of sir James Craig, that your claims for compensation should be referred to this country; nor, indeed, is allusion made to any kind of arrangement or agreement that had been made by that officer with you. Under these circumstances, and had not sir James Craig determined on his immediate return to England, it would have been lord Liverpool's wish to have referred your memorial to him, as being better enabled to appreciate the ability and success with which you executed a mission, undertaken at his desire; lord Liverpool will, however, transmit it to sir James Craig's successor in the government, with an assurance, that from the recommendations he has received in your favour, and the opinion he has formed on your correspondence, he is

convinced the publick service will be benefitted by your active employment in a publick situation.

Lord Liverpool will also feel himself bound to give the same assurance to the marquis Wellesley, if there is any probability that it will advance the success of the application which you have made to his lordship.

I am, &c.

ROBERT PEEL.

ACCOMPANYING LORD LIVERPOOL'S DESPATCH TO SIR
GEORGE PREVOST.

Extracts of Letters of recall from the Mission, in consequence of the Arrangements entered into between Mr. Erskine and the American Government. Quebec, May, 1809.

"THE news we have received this day from the United States, will, I imagine, soon bring you back to us. The last letters received from you are to the 13th April. *The whole are now transcribing to be sent home, where they cannot fail of doing you great credit, and, eventually, contribute to your permanent advantage.*"

H. W. RYLAND.

John Henry, Esq.

May 4, 1809.

I AM now formally to intimate to you our hope of your return; as the object of your mission seems, for the present at least, to be at an end.

Sincerely wishing you a safe and speedy journey back to us, I am, &c.

H. W. RYLAND, Sec'ry.

John Henry, Esq.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE
SENATE. MARCH 12, 1812.

I TRANSMIT to the Senate a report of the Secretary of
State, complying with their resolution of the 10th inst.

JAMES MADISON.

REPORT.

THE Secretary of State, to whom was referred the resolution of the Senate of the 10th instant, has the honour to report, that this department is not in possession of any names of persons in the United States, who have, in any way or manner whatever, entered into or countenanced the project or the views, for the execution or attainment of which John Henry was in the year 1809, employed by sir James Craig; the said John Henry having named no persons or person as being concerned in the said project or views referred to in the documents laid before Congress on the 9th inst. Which is respectfully submitted.

JAMES MONROE.

Department of State, March 12, 1812.

REPORT

OF THE COMMITTEE ON FOREIGN RELATIONS, RELATIVE TO
HENRY, CRAIG, &c. MARCH 19, 1812.

THE committee of foreign relations, to whom was referred the President's message of the 9th instant, covering copies of certain documents communicated to him by a Mr. John Henry, beg leave to report, in part—

That, although they did not deem it necessary or proper to go into an investigation of the authenticity of documents communicated to Congress on the responsibility of a co-ordinate branch of the government, it may, never-

theless, be satisfactory to the house to be informed, that the original papers, with the evidences relating to them, in possession of the Executive, were submitted to their examination, and were such as fully to satisfy the committee of their genuineness.

The circumstances under which the disclosures of Henry were made to the government, involving considerations of political expediency, have prevented the committee from making those disclosures the basis of any proceeding against him. And from the careful concealment, on his part, of every circumstance which could lead to the discovery and punishment of any individuals within the United States, (should there be any such) who were criminally connected with him, no distinct object was presented to the committee by his communication, for the exercise of the power with which they were invested of sending for persons and papers. On being informed, however, that there was a foreigner in the city of Washington, who lately came to this country from Europe, with Henry, and was supposed to be in his confidence, the committee thought proper to send for him. His examination, taken under oath and reduced to writing, they herewith submit to the house.

The transaction disclosed by the President's message, presents to the minds of the committee, conclusive evidence, that the British government, at a period of peace, and during the most friendly professions, have been deliberately and perfidiously pursuing measures to divide these States, and to involve our citizens in all the guilt of treason, and the horrors of a civil war. It is not, however, the intention of the committee to dwell upon a proceeding, which, at all times, and among all nations, has been considered as one of the most aggravated character; and which, from the nature of our government, depending on a virtuous union of sentiment, ought to be regarded by us with the deepest abhorrence.

COMMITTEE OF FOREIGN RELATIONS.

Friday, March 13.—COUNT EDWARD DE CRILLON sworn.—This deponent knows Mr. Henry. Dined with him at Mr. Wellesley Pole's, in September last, and afterwards

at lord Yarmouth's: met with him also at different fashionable clubs. Deponent fell in with Mr. Henry subsequently by accident: deponent had ordered his servants to procure him a passage to America. They met with captain Tracy, of the ship *New Galen*, of Boston, at the New London coffee house. After agreeing with him upon the terms of the passage, captain Tracy applied to deponent to know if he was ready to embark the next day, as the ship would sail on the following morning. Deponent said no; that he should send his servants on board, but should take a post chaise for Portsmouth, and pass over to the Isle of Wight, where he would wait for the vessel. On the day following, he went accordingly to Portsmouth, but before his departure he received a letter from captain Tracy, couched in these terms:—"Sir, you must go to Ryde, where you will find a gentleman called captain Henry, waiting for the *New Galen*. I shall send a boat ashore for both of you." Deponent went to Ryde; but did not find captain Henry there: thence he proceeded to Cowes, and inquired of the American consul, "if the *New Galen* had passed?" fearing that she had sailed without him. The consul informs him that the ship was detained in the Downs by head winds. Deponent returns to Ryde, where he remained three weeks alone, before captain Henry arrived. Henry came to deponent and told him that the ship was badly found, and advised him to go to Liverpool and take the packet. Deponent refuses; having paid his passage, and his trunks being on board. Captain Henry, three days after his arrival, fell sick. He kept his bed twenty-two days; during which time he was often delirious, frequently uttering the name of lord Liverpool. The deponent having two servants, one of them attended on Mr. Henry. During his illness Henry was visited by Mr. Powell of Philadelphia, a Mr. Wilkinson, or Dickenson, of the British army, and a Mr. Perkins of Boston. He received about two hundred letters from a Bostonian house [Higginson's] in Finsbury Square, that had lately stopped payment. He refused to take the letters, giving them to the captain. Mr. Henry was also visited by a Mr. Baggholt, who brought him letters from sir James Craig. Henry refused to receive those letters. He recovered from his sickness. Deponent occupying the most agreeable house in the place, Henry's physician

asked the favour of an apartment for him until ready to embark. After eight weeks' detention, the wind became fair, and the vessel sailed. The day before her departure, Mr. Baggholt arrived at Ryde, with letters from Lord Liverpool to Sir George Prevost, and to Mr. Henry. Henry, when he saw the seal of the letter addressed to him, said, throwing it on the table, "that is a letter from Liverpool, what more does he want from me?" He appeared to be much agitated, and retired to his room. Mr. Baggholt returned that night to London, without taking leave. But the wind becoming fair the next morning, the ship sailed. Mr. Edward Wire and Mr. West, both of Boston, and Mrs. Thompson of London, were passengers in the ship. Henry, at first, appeared very low spirited; took a cabin to himself, and mostly dined alone. In good weather he employed himself in shooting pistols, at which he was very expert. One dark night, about ten o'clock, the witness was walking on deck, much dejected, when Henry accosted him: "count Crillon (said he) you have not confidence in me; you are unhappy; confide your sorrows to me." He spoke so kindly, that deponent made him, in part, acquainted with his situation. Henry replied, "one confidence deserves another. I will now tell you my situation. I have been very ill treated by the British government. I was born in Ireland, of one of the first families in that country; poor, because a younger borthor. I went to America with expectations from an uncle (Daniel M'Cormick, Esq. of New York,) who possesses a large fortune, is old and unmarried. French persecution having exiled from that country many of the most respectable families of France, I married a lady of that description, who died and left two daughters, without fortune. I applied to the American government, and through the influence of the British minister, I was appointed a captain of artillery, during Mr. Adams' administration. I had command at Portland, and of the fort near Boston; and while in commission, I was employed in quelling a meeting or insurrection, among the soldiers; and during my continuance in office, I gave general satisfaction. But perceiving that there was no field for my ambition, I purchased an estate in Vermont, near the Canada line, and there studied law for five years, without stirring from home. I detested

republican government, and I filled the newspapers with essays against it."

Committee adjourned, and met the Day following, Saturday, March 14, 1812. ,

Count Crillon, in continuation.—Deponent says that Henry told him, in the course of the interview which he mentioned yesterday, that "the severity of his strictures in the publick prints, against republican government, attracted the attention of the British government. Sir James Craig, continued he, became desirous of my acquaintance. He invited me to Quebec, where I staid some time. Thence I went to Montreal, where every thing that I had to fear, and all that I had to hope was disclosed to me. I went afterwards to Boston, where I established my usual residence. I was surrounded by all the people pointed out to me by the agents who were under my orders. I lived at the exchange coffee house; gave large parties; made excursions into the country; and received an order extraordinary from sir James Craig, to dispose of the fleet at Halifax, and of the troops, to further the object of my mission, if required. My devotion to the cause was extreme. I exhausted all my funds. I spent many precious years in the service, and was advised to proceed to London. The government treated me with great kindness. I was received in the highest circles; was complimented with a ticket, as member of the *Pitt Club*, without being ballotted for. And when I had spent all my money and presented my claims for retribution, the government attempted to cheapen my services, [*marchander*] to beat me down. My claims were to the amount of 32,000*l.* sterling. I was told, however, that I should be provided for by a recommendation to sir George Prevost, in case I would return to Canada, and continue my mission and services as before, and to exercise the same vigilance over the interests of the British government. At the same time, the government appointed a friend of mine, an Irish gentleman, attorney general for Canada, through my influence." [Deponent saw this gentleman at Mr. Gilbert Robertson's in New York.] Henry continued: "Disappointed in my expectations, I was impatient to proceed to Canada, to sell

my estates, and my library, and take my revenge against the British government. I knew that if I went to Canada, I must deliver up my despatches, and that I should afterwards be put off by the government. I therefore determined to retain the documents in my own possession, as the instrument of my revenge. Determined to extricate myself from my embarrassing connection with the British government, I refused the offer of a passage to Halifax, in one of their ships of war, and determined to live privately and retired at Ryde, and take passage in the first vessel that should sail for the United States. This is the cause of your meeting me at Ryde."

Deponent represents to Henry, "that England was his legitimate government; that he would render himself the most odious of all characters by betraying it; that his (the deponent's) government had treated him harshly, and that he then laboured under its displeasure, but no consideration should induce him to act against it. That we must not resent a parent's injuries. Tells him to have patience and wait for his reward." Henry then plead in his justification the wrongs of his native country, Ireland, inflicted by the British government.

Henry came down to Washington, and stopped at Tomlinson's, where deponent saw him. He afterwards removed to Georgetown, to the house of one Davis, an auctioneer, where deponent visited him every day, and found him always occupied in writing. Deponent waited for his disclosures, not having any disposition to pry into his secrets; but Henry was entirely silent, and incessantly sighing very deeply. On the day of general Blount's funeral, deponent took Henry down to Alexandria, in expectation that he might communicate his projects: but he was still reserved. After dinner they returned; and whilst in the carriage, Henry tells deponent, "that he has great confidence in him; that he (deponent) has been here some time, and asks his opinion of Mr. Monroe." Deponent answers, that he was very little acquainted with any body, but thought Mr. Monroe a most virtuous and respectable man.

Deponent remained several days without hearing any thing more, until one morning, at 7 o'clock, Henry came into his apartment and said, "Crillon! you must sell me St. Martial" [an estate of the deponent, in Lebeur, near

the Spanish frontier.] "You have the title papers with you; my name will be rescued from oblivion by living near *Crillon*, the habitation of your ancestors, and of a man who has been my friend." Deponent answered that he had no objection; and if Henry on seeing the property, was not satisfied, he would give orders to his agent in France to cancel the bargain. The conveyance was accordingly made; Henry left deponent, when Mr. Brent, to whom Henry was not introduced, came into deponent's apartment. About this time, deponent received four anonymous threatening letters, and was advised by his friends that he was surrounded by spies; but he told them that he had nothing to fear, that he was "sans peur et sans reproche." By one of their letters I was advised to leave the city by twelve o'clock, as a person had arrived from London with orders to arrest me. Meanwhile, rumours circulated very generally to the deponent's prejudice, and he was under the necessity of vindicating his character, and of correcting the author of those reports.

The message of the President gave the deponent the first intelligence of the true state of the transaction.

Henry told deponent, that a Mr. Gilvary, or Gillivray, from Quebec, had come to him at New York, to persuade him to go to Canada; but Henry said "that he would not, that the Rubicon was passed."

Henry kept the first company at Boston.

Being questioned, if Henry had mentioned the names of any persons, with whom he had conferred? deponent answered "none."

Deponent landed at Boston, December 24, 1811; staid there about 10 or 12 days; visited governour Gerry twice.

Question. Do you know where Henry is now?

Answer. No. By report, I hear, in New York.

Deponent left Boston in the publick stage; Henry was also a passenger: But at Newhaven, deponent took a private carriage to himself.

THE COUNT EDWARD DE CRILLON.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. MARCH 13, 1812.

I LAY before Congress, a letter from the envoy extraordinary and minister plenipotentiary of Great Britain, to the Secretary of State.

JAMES MADISON.

Mr. Foster to Mr. Monroe. Washington, March 11, 1812.

THE undersigned, his Britannick majesty's envoy extraordinary and minister plenipotentiary to the United States, has read in the publick papers of this city, with the deepest concern, the message sent by the President of the United States to Congress on the 9th instant, and the documents which accompanied it.

In the utter ignorance of the undersigned as to all the circumstances alluded to in those documents, he can only disclaim most solemnly, on his own part, the having had any knowledge whatever of the existence of such a mission, or of such transactions as the communication of Mr. Henry refers to, and express his conviction, that from what he knows of those branches of his majesty's government with which he is in the habit of having intercourse, no countenance whatever was given by them to any schemes hostile to the internal tranquillity of the United States.

The undersigned, however, cannot but trust that the American government and the Congress of the United States will take into consideration the character of the individual who has made the communication in question, and will suspend any further judgment on its merits until the circumstances shall have been made known to his majesty's government.

The undersigned requests the Secretary of State to accept the assurance of his highest consideration.

AUG. J. FOSTER.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.

APRIL 1, 1812.

CONSIDERING it as expedient, under existing circumstances and prospects, that a general embargo be laid on all vessels now in port or hereafter arriving, for the period of sixty days, I recommend the immediate passage of a law to that effect.

JAMES MADISON.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE SENATE. APRIL 23, 1812.

I TRANSMIT to the Senate a report of the Secretary of State, complying with their resolution of the 4th of March last.

JAMES MADISON.

REPORT.

THE Secretary of State to whom was referred the resolution of the Senate of the 4th of March last, has the honour to report, that the enclosed papers, marked A. B. and C. contain all the information in this department, "relative to captures made by the belligerents since the 1st day of May, 1811, of vessels of the United States, bound to or from the Baltick, or within that sea."

All which is respectfully submitted.

JAMES MONROE.

Department of State, April 23, 1812.

B.

*Extract from Mr. Erving's No. 6, to the Secretary of State.
Copenhagen, July 28, 1811.*

I HAVE the honour, herewith, to enclose copies of my note to Mr. de Rosenkrantz, dated 17th instant, upon the convoy question, No. 1, and his reply of the 27th, No. 2.

The reference of my above mentioned note to the royal chancery, as stated in the minister's reply, did not take place till the 24th or 25th; in the mean time two of the cases therein mentioned, viz.: The Annawan and the Hesper were condemned by the high court: I think it probable that the remaining two cases, in which, as you will perceive by that note, the evidence of force used to compel the vessels to join convoy is more clear than in the other cases, will be acquitted. Since the date of my last, upwards of twenty of our vessels have passed up the Baltick; some few of these have been detained, examined and released. Eight vessels have come down bound for the United States; of these, five have been detained; one, the "Experiment," Vibbert, having despatches on board from Mr. Adams, was released instantly, on my application; three others were released after a few days' detention, and one only (having an English license, laden for English account, and being bound to Ireland) is pending in the prize court.

It is said that a great number of our vessels have gone up under convoy. I find it is impossible to obtain in advance, any security for such of these as may return without convoy. The clause in the king's instructions, against which I have thought it my duty to protest, is understood to extend to all vessels which *have used* enemy's convoy during the voyage (out and home) in which they are actually engaged.

[ENCLOSED IN MR. ERVING'S NO. 6.]

To His Excellency Mr. de Rosenkrantz, first Minister of State and Chief of the Department for Foreign Affairs, &c. Copenhagen, July 17, 1811.

SIR,—The undersigned, special minister of the United States of America, in acknowledging the receipt of the note dated 9th instant, of his excellency Mr. de Rosenkrantz, first minister of state, and chief of the department for foreign affairs, cannot but express the very great concern with which he has seen the determination of his majesty therein declared, of adhering to a rule of proceeding with regard to American vessels, found under British convoy, against which the undersigned has so formally protested and remonstrated, as a violation of principles derived from the law of nations to which only the United States can submit the arbitration of their neutral rights; that contrary to the practice of other governments with which that of America has from time to time found itself in collision upon similar questions, his Danish majesty confines himself to a declaration of his will unsupported by authorities or examples, and unqualified by any modifications of, or exceptions to, the offensive principle in question, adapted to the peculiar circumstances of the cases which may be affected by it; and finally, that by the operation of this rule, cases now depending in the high court, of ships and cargoes purely and wholly American, wherein neither the owners or masters have done, attempted to do, or contemplated any injury or offence to his majesty's belligerent rights, are to be condemned because they have had the previous misfortune of falling into the hands of his enemy: neither the regular form in which these vessels have entered the Baltick, paying their Sound dues; neither the judicial investigations which have established their neutrality; neither orders found on board directing them not to take British convoy; neither the notoriety or the most clear proofs of their having been forced into convoy; these it seems are not to avail. But that his majesty may see in the most distinct manner the full effect of his own rule, and that the representations of the undersigned against it may go accompanied by clear exemplifications of the injustice which it operates, so that it shall

at all times appear that he has not remonstrated but on sufficient grounds, and that he has not magnified the cause of complaint, he will here briefly state the circumstances of the only four vessels which remain uncondemned of eighteen which were taken under the same convoy: These are,

The Annawan, Donaldson; Hesper, Cushing; Hope, Rhea; Elizabeth, Campbell.

The two first named of these vessels (Annawan and Hesper) were captured by his majesty's cruisers on entering the Baltick. They underwent a trial in the prize court, when their neutrality was fully established, and they were released. These previous proceedings leave scarcely a possibility of supposing that they sought convoy on their return; but the assurance in this respect is completed and confirmed by the unanimous declarations of the masters and crews, proving most incontestably that they were forced to join the British convoy.

The Elizabeth, captain Campbell, was also captured on her outward voyage by his majesty's cruisers: her neutrality was established and she was acquitted by the prize court. The fact of her having been forced into convoy, conformably to the unanimous declaration of the master and crew, is found also recorded in her logbook, under date June 18th, 1810.

The instructions of the supercargo, Fisher, found on board, direct the captain in these words, viz:

"In your passage down the Baltick, you will call at Elsineur and pay the Sound dues, if in your power; and if prevented by any force, or other occurrence, you will make the necessary protests, and forward such documents to Mr. Yard as will prove your having proceeded in every respect in a clear and regular manner. In case, however, notwithstanding all the documents you possess, you should meet with any interruption whatever, I beg you will, if on any part of the continent, send me an estafette, and I will endeavour as much as lays in my power to assist you, either by coming to you or sending you such proofs as lay in my power. I have provided you with a letter of credit on the house of Messrs. Parish and Co. of Hamburgh, in case of need; and I shall also write to Messrs. Belfour, Ellah and Rainals, to send you assistance if you are in need of it, which I must confess I do not apprehend, from

the Elizabeth having regularly paid her Sound dues, and having been already acquitted through the courts in Norway."

The supercargo Fisher also wrote to the above mentioned Belfour, Ellah and Rainals, of Elsineur, directing them to pay the Sound dues on the Elizabeth and despatch her as quick as possible, which letter said Belfour and Co. received, as appears by their affidavits.

In the case of the "Hope," Rhea, superadded to all other proofs of her having been forced into convoy is an endorsement made on her ship's papers on the 15th June, by the British commander, Charles Dashwood, of which the following is an extract.

"Boarded by H. M. S. Pyramus, off the north end of Gothland, and ordered to proceed to join convoy in Hano bay, near Cadsham. He has no license whatever, yet as it appears to be neutral property, the return of his outward bound cargo, I have my doubts about detaining her. My object in ordering her to join convoy, though a neutral, is to prevent her from going to an enemy's port with naval stores, or to be captured."

The undersigned is sensible that he has now said all that the subject requires, yet he cannot leave any observation of his excellency Mr. de Rosenkrantz without reply; upon that therefore which seems to call for the acquiescence of the American government to the rule in question, because it has not been disputed by any European power, he must remark, that no European power whatever is, relatively to that rule, in the same situation as the United States; but on the contrary, that each of them is impossibilitated, by the nature of circumstances, from reclaiming against it.

G. W. E.

TRANSLATION.

Enclosed in Mr. Erving's No. 6.

THE undersigned, minister of state, chief of the department of foreign affairs, has the honour to inform Mr. Erving, minister of the United States of America, that in consequence of the particular representations which Mr. Erving addressed to him on the 17th inst. in favour of the

American vessels "Annawan," "Hesper," "Hope," "Elizabeth," captured under English convoy by Danish cruisers, he hastened to cause the royal chancery to make known to the supreme tribunal of the admiralty, the arguments furnished by the note of Mr. Erving, to prove that the said vessels had been forced to join convoy.

The undersigned has also drawn the attention of the supreme tribunal to the particular situation in which these vessels were placed. He wishes that this circumstance may determine the judges of the admiralty to make an exception to the rules established for the government of cruisers, and for the tribunals of prizes.

The minister of state has the honour to pray of Mr. Erving to be pleased to observe that if, as he remarks, the American vessels find themselves, so far as regards the use they make of the protection of the enemies of Denmark by the means of convoy, in a situation or relation different from that of vessels under the European flags generally, this does not in any degree change the rule which has been prescribed by the king of Denmark, because, as has been heretofore alleged by the undersigned, the protection of the enemy destroys, in him who uses it, his original quality of neutral and friend. This rule might, by an event of the moment, be more applicable to the conduct of the masters of American vessels, than to that of the masters of vessels under any of the European flags, but it is calculated to be applied to every neutral flag without distinction.

The undersigned is consequently obliged again to state to Mr. Erving, that the use of English convoy, in the North Sea, or in the Baltick, exposes neutral vessels to be treated conformably to the provisions of the S. xi. lit. D. of the ordinance regulating privateers.

He seizes this occasion to renew to the minister of the United States the assurance of his high consideration.

ROSENKRANTZ.

Copenhagen, July 27, 1811.

No. 7.

Extract of a Letter from George W. Erving, Special Minister of the United States at Copenhagen, to the Secretary of State. Copenhagen, August 18, 1811.

Two American vessels, viz : the "Hero" and "Radius," have been captured by the French privateer *La Minute*, No. 2. The captain of this corsair imagines that he can justify the capture by his emperor's decree against colonial produce, within which description he supposes the cotton of these vessels, (though the produce of Carolina and Georgia,) to be comprised. The oil on board the *Radius*, is from Gallipoli. The same corsair is now cruising off *Elsineur*, just without the Danish jurisdiction, and declares his intention of stopping every vessel which has any colonial produce on board; though as the season is so far advanced it is not probable that there will be any more arrivals from the United States; yet I have taken measures to have a Swedish boat cruising from the island of *Anholt* to the coast of Sweden, to warn all our vessels so that they may pass through the Belt and pay their Sound dues at *Nyborg*."

[ENCLOSED IN MR. ERVING'S NO. 7.]

Extract of a Letter from George W. Erving, Esq. Special Minister of the United States at Copenhagen, to Jonathan Russell, Esq. Charge d'Affaires of the United States at Paris. Copenhagen, August 9, 1811.

"BRIG *Hero*, H. Blackler, master, of Marblehead, owned by William Blackler and Sons, 107 tons burthen, from Marblehead, bound to St. Petersburg with a cargo of cotton and coffee.

"BRIG *Radius*, B. Lander, master, of Boston, owned by W. Gray, from Newport, bound to St. Petersburg, with a cargo of oil, cotton, &c.

"DEAR SIR,—The two vessels above mentioned, arrived at *Elsineur*, on the 6th instant, paid their Sound dues, and proceeded on their voyage. On the 7th, the wind being

ahead, they anchored near this port. Yesterday morning, about 4 o'clock, they got under way again, and in the course of the day were captured by a French privateer, at about six English miles from the Danish shore, off the point of Falsterbrough, that is within the Swedish jurisdiction. They were brought into this port by said privateer at 2 o'clock yesterday afternoon. I made every effort with Mr. Desaugiers, the French consul and charge d'affaires, and with his government, to prevent the papers (which were immediately delivered to said Mr. Desaugiers) being sent to Paris, and to obtain that the matter should be decided in the tribunals of this country, but unhappily without effect.

"The papers of these vessels will probably go to Paris by this same post: the cases will necessarily fall under your care. In the present state of our relations with the emperor, we may hope not only for despatch, and a favourable decision on them, but for some check to the depredations which are likely to be committed in this quarter."

No. 8.

*Extract of a Letter from Mr. Erving to Mr. Monroe.
September 8, 1811.*

"SINCE the date of my last, (August 18th) the same French privateer has captured three of our vessels bound up the Baltick, viz: the "Egeria," Law; "Hannah," Dennis; and "Two Generals," Courtesis. She has been lately joined by another, called "Le Loup." They lay at Elsineur, cruising in favourable weather, from thence to the Kohl point, and in that position must intercept all vessels entering the Sound. The just apprehensions which their proceedings have excited, to say nothing of their open declarations, which are not so well established, prevent our vessels which have arrived from Petersburg at Elsineur, from leaving that place. The number of these at present may be about ten, and will be augmenting daily. They are impatient to depart, not only on account of the lateness of the season, but because the roads of Elsineur are not safe in bad weather. Some of

them are disposed to sail, and to defend themselves, and have offered their protection to others which are not prepared for defence. I have hitherto been able to dissuade them from this purpose, under the reasonable prospect of obtaining from the Danish government some security for them in consequence of the application which I have made with that view."

No. 9.

To James Monroe, Secretary of State. Copenhagen, September 23, 1811.

SIR,—I have the pleasure to add to what is contained in my despatch No. 8, respecting our vessels then lying at Elsineur, and bound to the United States, that, on the 21st instant, the whole fleet (consisting of twenty-three vessels) put to sea, and owing to the good conduct of the Danish gun-boats keeping the Danish privateers in order, it is understood that none of them have been captured. I am well persuaded that the same conduct will be observed on future occasions. Still further to insure a good police in the Sound, a Danish gun brig ordered to co-operate with the gun-boats has, to day, been despatched from hence. The enclosures, No. 31 and 32, will inform you more particularly as to the departure of our vessels. The two, mentioned by Messrs. Belfour and Co. the captains of which had come hither to see me, followed the rest, and in equal security, the same day.

With the most perfect respect, I have the honour, &c.

GEORGE W. ERVING.

P. S. OCTOBER 2.—The wind having continued favourable for the fleet, no farther intelligence respecting it, which could be entirely relied on, was received till yesterday, when the "Augustus," Flint, master, and "Horace," Leech, master, both belonging to Salem, and bound from Petersburg to Boston, were brought back under capture (by the Danes.) I understand the ground of capture to have been, with respect to the "Augustus," (and probably of the other) that one or more cannon, not mentioned

on her papers, besides some Danish muskets (the exportation of which is prohibited) were found on board.

It appears that the French privateers gave chase to the fleet, continually firing to bring them to, but they did not succeed in detaining a single vessel.

Two other of our vessels went from hence on the 24th, and got safe out also.

Since then, two more French privateers have arrived; and now they seem disposed to cruise above this island. One of our vessels bound from Petersburg to Elsinour has been sent in to-day.

G. W. E.

No. 31.

[ENCLOSED IN MR. ERVING'S NO. 9.]

To Messrs. Belfour, Ellah, Rainald and Co., Elsinour. Copenhagen, Sept. 21, 1811.

GENTLEMEN,—I have to acknowledge receipt of your several favours of 17th and 19th instant.

Two American captains from Elsinour to-day, inform me that whenever the wind is fair for their sailing, the gun-boats are in the habit of going out and lying in the channel; upon which movement they founded some apprehension. Though I did not put the same construction upon this practice as they seemed to do, and expressed my opinion accordingly; yet I have thought it proper to inquire further into the matter, and have the pleasure to say, that I now feel assured that the intention of the movement referred to, is far from hostile; that it is the object of the gun-boats, pursuant to his majesty's instructions, to preserve peace, and to afford the security due to neutrals *within his majesty's jurisdiction, on the water*. Within that jurisdiction, I presume that they will not allow of any capture, and therefore a vessel in danger of capture, and flying from danger, will find protection under their guns, in lieu of being endangered by them.

G. W. E.

No. 32.

From Belfour and Co. to Mr. Erving. Elsinour, Sept. 21, 1811, 8 o'Clock, P. M.

SIR,—We crave reference to our respects of this morning's date, and have now to inform you, that at twelve o'clock this forenoon, every ship (except two, the captains of which were at Copenhagen) got under sail and proceeded down Cattegat; when, nearly off Hornbeck, they were mostly brought to, and boarded by Danish privateers; but, as yet, we have not learnt any were detained. Many seemed afterwards to proceed on. The French privateers were much lower; say, below the Kohl; and many seemed inclined to think it possible that they will not be able to board, there being so strong a current down, drifts them further to sea than they are aware of. Unluckily there is but little wind.

The gun-boats went down at same time to take care that the French did not interfere within our jurisdiction. A Danish privateer, that was considered to be acting improperly, was fired at by one of the gun-boats, and unfortunately one man killed and two wounded.

We are, &c.

BELFOUR, ELLAH, RAINALS & CO.

Extract of a Letter from Mr. Erving to Mr. Monroe, No. 10. Copenhagen, Nov. 10, 1811.

"Two other of our vessels, viz. the "Roboreas," Williams, master, and "Andromache," Laing, master, have been captured by the French privateers, without the Danish jurisdiction. They were bound from Russia to the United States.

The "Hero" and "Radius," mentioned in No. 8, have been condemned by the council of prizes at Paris, on the allegation that they were laden with colonial produce, for English account, &c. An appeal to the council of state has been entered.

The cases of the "Two Generals" and "Hannah," also stated in No. 8, are yet pending here. The papers have been demanded of the French charge d'affaires by

this government: he has written to Paris for instructions, which will probably be favourable; or if not, as the French can only claim under the Danish captor, the fact of the vessels having been taken within his majesty's jurisdiction being established, the cases must be tried here; in which event I entertain no doubt but that they will be acquitted.

In the case of the "Egeria," it has been determined by this government that the French captors cannot claim, and the vessel will be forthwith released.

By my despatch No. 9, of September 23d, I had the pleasure to inform you of the departure from Elsinour of twenty-three homeward bound vessels; that none of them had been intercepted by the French, and that two only (having armed themselves whilst laying at Elsinour) had been brought back by a Danish privateer: These I shall be able to procure the release of in a short time.

Very lately, three other homeward bound vessels, viz. the "Lyon," "Agent" and "Dolphin," have gone out unmolested. By this last, we are informed that no American vessels remain at Petersburg; so that I trust no further captures will be made this year, by either the French or Danish privateers.

Of the cases which were pending on my arrival at this place, as by statement transmitted with my despatch No. 4, one only (the "Resolution," Eldridge, master,) has been condemned, convoy cases excepted. The "Resolution," belonging to Messrs. Minturn and Champlin, of New York, had been bought for their account in England during our embargo, went from thence to Madeira and India; at Canton, was laden partly for account of said Minturn and Champlin and partly for account of Chinese merchants; went to New York after the embargo was raised, and there received the usual papers, with which she continued her voyage to the Baltick.

Of the above mentioned pending list, only one case remains to be decided, (the "Minerva Smyth," Mann, master.) It is in rather an unfortunate situation, and I have therefore delayed it myself, for the purpose of procuring, and in the hopes of introducing into the cause further evidence. It may be settled in the course of six weeks.

Of the list containing fifty-eight vessels, dated July 15th, and transmitted with the same despatch, No. 4, only nine

were captured vessels. Eight of these have been released; one, viz. the "Charlotte," Pierce, master, has been condemned: her owner went in her to England, from whence he dated his instructions to the captain. The other reasons assigned for condemnation will be found in a translated copy of the sentence, which is No. 37 of the file herewith transmitted.*

I also enclose herewith a list of vessels which have passed this way from the date of the last (July 15,) to October 9th. It amounts to eighty-two. Of these, there have been

Captured and released,	-	-	14
Captured and condemned for having English license, false clearance, having been under English convoy, &c.	-	-	2
French captures, "Hero," "Radius," "Roboreas," and "Andromache,"	-	-	4
Pending cases in Norway,	-	-	7
Pending cases in Copenhagen,	-	-	11
Continued their voyages without interruption,	-	-	44
			<hr/>
			82

Thus it appears, that of the two lists, making together one hundred and forty vessels, three only have been condemned, and one hundred and fifteen have gone clear. And besides these, a great number of vessels have arrived and departed from the coasts of Norway, Holstein and Jutland, of which I have not any particular accounts, and therefore they are not entered on the lists.

Of the eighteen cases (exclusive of French captures) which were depending on the 9th of October, five of the Norway, and three of the Copenhagen cases have been favourably decided; there has not been one final condemnation, nor do I see reason to apprehend that more than one of those actually depending will be condemned. These may probably all be settled in the course of about five weeks."

* This paper is not on Mr. Erving's file.

No. 12.

Extracts of a Letter from Mr. Erving, special Minister of the United States at Copenhagen, to Mr. Monroe, Secretary of State. Dec. 23, 1811.

"My last despatch, relating to general business, was No. 10, of November 10th."

"No further captures have been made by the French privateers in this quarter. At Nyborg, close by the fort, a privateer, called the General Durosnel, commanded by one captain Massé, has lately boarded and taken possession of the "Olive Branch," Bradley, master, of Philadelphia, laden with German goods, and having the king's license. Mr. de Rosenkrantz has promised that he shall be delivered up forthwith; but as the papers of the ship have been put into possession of the French consul, by the privateersman, some considerable delay may yet take place; there can be no doubt, however, but that the consul will be ordered by his government to restore the papers; since the prince of Echmul (commanding at Hamburg) instantly on learning what had passed, saw fit to suspend captain Massé.

"Another privateer, called Nordsteirnein, (or Northern Star) commanded by captain Weide, lately cut out from the roads of Swinemunde in Prussia, the "Jane Maria," Moffatt, master, (a vessel some time ago released here:) captain Moffatt and six of his crew being on shore, and two Prussian soldiers as guards on board, the privateer's intention was to have carried her into Rodstock: in that he failed, and the wind not allowing of his entering any other port, he was obliged to bring her to this place, where she arrived a few days since. The same privateer having formerly cut some Danish vessels out of a port in Holstein, and having consequently been prohibited from cruising, was ordered away instantly on his arrival. I claimed the restitution of the vessel. The Frenchmen were accordingly turned on shore. She is now occupied by Danish soldiers, and waits only for the arrival of the captain and crew (for whom I have sent) to be entirely at liberty. The prince of Echmul has also suspended this captain Weide."

"Finally, on the 16th instant, the "*Augustus*," Flint, and "*Horace*," Leech, whose cases were mentioned in my despatch, No. 10, as then pending, having been released, and proceeding on their voyage, were attacked between this and Elsinour, by two French privateers. The American vessels escaped, but on their arrival at Elsinour were claimed by the privateers; and the commandant there, though he would not acquiesce in that pretension, thought it his duty to put them under embargo, till he could receive the king's orders. I immediately made a suitable representation of this transaction, and the vessels are now put at the disposal of their several captains: by one of them I shall transmit this despatch."

"He" [Monsieur Le Baron d'Alqui, lately minister of France at Stockholm, now at Copenhagen,] "has expressed himself to me in the fullest and fairest manner against the proceedings of the French privateers, in general, and particularly in the cases above mentioned; assuring me that he shall make it his business to have the captains in question severely punished."

"The lists of arrivals here, which I have transmitted with former despatches, included, as you will have observed, all the vessels which had been reported to me, whether entering or going out of the Baltick; yet they cannot be considered as complete. My correspondents at Elsinour, Messrs. Belfour, Ellah, Rainals and Co. to whom I am very much indebted for a great deal of useful information, furnished me with lists of 102 American vessels which entered the Sound, bound to Petersburg. We calculate 60 to have passed through the Belt; and upon the whole, that about 350 cargoes in and out have passed this year."

Extract from Mr. Erving's No. 14, to the Secretary of State. February 12, 1812.

I HAVE also looked at the results of the last year's accounts, and I can safely say, as I do with great satisfaction, that when the business is closed, not more than 1 in 46 of the vessels which have passed (one-fourteenth of the captured) will have been condemned, which in the actual situation of Europe, and under all the circumstan-

ces of our commerce considered in its own nature, is even a smaller proportion than was to have been anticipated; however the results of former years may appear, I hope to make it evident that our government has afforded as effectual and complete protection to the commerce, during the last year, as it is possible for neutral commerce in these times to receive.

C.

Case of the American Ship Julian.

THE *Julian* left Philadelphia the 7th of May, 1810, bound to Gottenburg, and any free port of the Baltick. On the 19th of June, in passing Fair Island, she was hailed in English by a vessel of war, but not boarded, and continued her course for Gottenburg. On the 21st of said month she was captured, off the Naze of Norway, by a Norwegian privateer, and carried into Christiansand. On the 27th of July, she was released by a decision of the prize court, with an award of damages. The captors appealed to the high court of Copenhagen, which confirmed the former decision. The papers were not received till the 7th of January. At this season, it was impossible for the vessel to continue her voyage, and she was obliged to remain at Christiansand till the 10th of April, (nearly ten months detained) when she sailed for Gottenburg, where she arrived on the 12th instant. Not finding a market there, the captain, on the 23d April, proceeded to St. Petersburg—paid the usual toll at Elsineur. On entering the Sound, had been hailed and boarded by English ships of war, and was captured on the 4th of May, off the island of Gothland, by the French privateer the *Marie Louise*, and conducted to Dantzic. On the 12th inst. the captain, supercargo and crew, were interrogated by the French consul of that place. On the 10th September, 1811, the vessel and cargo were condemned by the council of prizes at Paris on the following report, viz.

1. That the captured crew acknowledged that the *Julian's* cargo consisted of colonial productions.
2. That she was visited by several English war vessels.
3. That the papers indicate, that the supercargo thought it possible to procure false certificates of origin.

4. That he corresponded with merchants of Liverpool.

5. That it is so much the less doubtful that this vessel entered the Baltick under English convoy, as it is not proven that he paid the duties of the Sound in passing Elsineur; therefore it must be inferred that he himself was English, and that for this reason he was obliged to purchase at great expense his freedom in Norway, where he ought to have been received as a neutral, if he were really American; that on this account, the whole is liable to condemnation without further delay.

The supercargo, William Bell, declares, that the receipt of the duties of the Sound was delivered with the papers to the French consul at Dantzic, who returned it to captain Abbot with the quarantine pass and other papers.

Ship's Papers.

1. Register. 2. Sea letter. 3. Mediterranean pass. 4. Roll of equipage. 5. Bills of lading. 6. Manifest. 7. Clearance. 8. Declaration of owners. 9. Certificate of origin. 10. Certificates. 11. Instructions. 12. Certificates of damages, letters, London Price Current, &c.

Case of the American Brig Catharine.

THE Catharine sailed from Boston in April, 1810, with a cargo consisting of sugar, cocoa, cotton, and fustick, bound to Gottenburg and a market. On her passage to that port, in the month of June, she was captured by a Danish privateer, off the coast of Norway, and conducted to a port of that country. By a decision of the prize court at Christiansand, she was liberated. The captors appealed to the high court of admiralty at Copenhagen, which confirmed the former decision in the month of December. It was impossible to prosecute the voyage at this season. The Catharine remained in Norway till April, in which month she proceeded to Gottenburg; and not finding a market there, she proceeded to Petersburg, passed the Sound, paid the duties at Elsineur, and, continuing her voyage, was captured on the 3d day of May, off the island of Bornholm, by the French privateer the *Jeune Adolphe*, who conducted her to Dantzic. On the 10th day of Sep-

tember, the brig and cargo were confiscated by a decree of the French council of prizes, which states,

"That the Catharine touched at Gottenburg, which was then visited by an English armed packet boat, which indicates that this vessel, laden almost wholly with colonial productions and dye wood, was employed for the interest of English commerce; that, besides, it cannot be doubted that he entered the Baltick under an English convoy, and that if he was not visited by the enemy's ships, of which there were there a great number, it was because he was himself an enemy under American disguise; and therefore the confiscation of the brig and cargo is not attended with any difficulty."

The supercargo, Ephraim Thayer, declares, that the Catharine was not under convoy; that the voyage was in every respect legal.

Ship's Papers.

1. Register. 2. Mediterranean and Turkish pass. 3. Articles of engagement. 4. Roll of equipage. 7. 8. Bills of health. 9. Bills of lading. 10. Manifest. 11. Clearance. 12. Certificates of origin. 13. Instructions. 14. Accounts and clearance. 15. Decision of the Danish prize court. 16. Receipts for the duties at Fahrensund.

Case of the Ship Hercules.

THE Hercules, of New Bedford, in the United States, sailed from Charleston, in South Carolina, the 22d February, 1810, with a cargo of rice, cotton, tobacco, and logwood, destined for a free port of the Baltick. On the 27th March, this vessel arrived at the roads of Gottenburg, to avoid the ice of the Baltick, and on the 3d April following she sailed for the port of St. Petersburg, and was captured, near Elsineur, by a Danish privateer, by which she was conducted to Copenhagen, where she was detained till the 1st of May, when she was permitted, by a decision of the council of prizes, to continue her route to St. Petersburg. On the 2d of said month, she was forcibly seized, near the island of Oland, by the French privateer *Little Devil*, commanded by captain Klimerath, who conducted her as a prize to Dantzic, which was ad-

judged as good and lawful by a decision of the council of prizes passed on the 10th September.

The neutrality of the vessel and cargo is completely established by the papers found on board, which were all duly authenticated. The cargo was consigned to the captain by the shippers, proprietors of the vessel, all citizens of the United States.

There was a certificate of the importation of the Campeachy wood, legalized by the French consul, and certificates of the origin and property of the cargo from the Danish and Swedish consuls residing at the port of embarkation. Besides these documents, there was a certificate stating, that there was no Russian consul at Charleston, and also a copy of the judgment of the Danish council of prizes of the 13th April, 1811, which ordered the vessel and cargo, truly American, to be put at the disposition of the captain—he paying certain expenses incurred by the capture.

The following are the grounds of capture, as stated in the decision of the imperial council of prizes:

1. That the Hercules was laden with colonial productions.

2. That she had no fixed destination, and was consigned to the captain.

3. That she touched at Gottenburg, which is considered as an English entrepot.

4. That she, without doubt, navigated under the protection of English convoy.

5. That it was impossible she was not visited by the enemy's ships of war in approaching the 'isle of Anholt.

1. The captain and crew have declared, that the vessel was not visited by any English ship or vessel, and there is no proof exhibited against this statement.

2. Her destination was regular, seeing it was for a permitted port of the Baltick.

3. At the departure of the Hercules from the United States, there was even no suspicion that Gottenburg was considered as an enemy's port.

4. The captain and crew have declared; as is proven by the logbook, that this vessel was not under convoy, and there is no proof of the statement.

Brutus	Acquitted by inferior court. Captors appeal.
Fame	Acquitted.
Delaw	Acquitted. Captors taxed costs.
Exper	Released.
Rache	Do.
Laura	Pending.
Conco	Released.
Amiab	Do.
Swift	Do.
Aurora	Condemned. English license, &c.
Zodiac	Released.
Phoeni	Do.
Hero	Condemned. Suspicion of being on English account, and of sailing with convoy, &c.
Radius	Condemned. Suspicion of being on English account.
Washi	Condemned in inferior court. Pending in high court.
Dolph	Released.
Maryl	Condemned in inferior court. Pending in high court.
Neptu	Condemned. English license, &c.
Comet	Released.
August	Cond. in the inferior court. Acqu. in the high court.
Sukey	Released.
Hanna. Fr.	
Two	
Egeria	Released.
Nancy	Condemned in the inferior, pending in the high court.
Jerem	Do. do.
Lyon	Released.
Horac	Acquitted.
Packe	Released.
Indust	Do.
Rover	Released.
Jane	Do.
John	Acquitted. Captors appeal; and finally acquitted.
Pilot	Released.
Hæbe	Do.
Presid	Condemned. English property.
Robor	
Andro	
Julian. Fr.	Condemned on pretence of being on English account, &c.
Cathar	Do. do. do.
Hercu	Pretence of sailing under convoy, &c.
Atlant	
Indian	
Olive	See document marked B. No. 12.
Jane	Do. do. do.

4, 1811.—Continued.

when the last List was made out.

Names.	Date.	Proceedings.
Heard, Wm. Ward	Sept. 5	Passed without interruption.
G. Gray	7	Do. do.
Sally vens & Killan	8	Do. do.
Sad	9	Do. do.
Iris		Do. do.
Arg-Hitchins & Co.		Do. do.
Colsters		Do. do.
Pac		Captured. Pending.
John		Passed without interruption.
Ind		Capt. and carried into Farhsund. Pending.
Row		Captured. Pending.
Jane		Do. do.
John		Captured. Released.
Sch	23	Captured. Pending.
Supp Kintzing		Passed, but afterwards wrecked.
Dor pier	24	Passed without interruptibn.
Mar		Do. do.
Cys Cazneau	29	Do. do.
Hoe		Captured. Pending.
Pret		Do. do.
Rob		Captured by a French privateer.
And		Do. do.

GEORGE W. ERVING.

Fret	In Copenhagen—	Washington,	Brown,	} Condemned in the inferior court. Pending in the high court.
vi		Maryland,	Peters,	
alt.		Augustus,	Flint,	
Of d. al.		Nancy,	Eveleth,	
Com		Jeremiah,	Russell,	} Released.
Gon		Horace,	Leech,	
Fret		Packet,	Somes,	} do.
bi		Rover,	Groves,	
Pen-g-		Jane Maria,	Moffatt,	} do.
Pen		Hannah,	Dennis,	
		Two Generals,	Courtois,	} Double captures.

sed, viz.

ally pending.

GEORGE W. ERVING.

LIST O.

N. B. Those of a prior date

Vessels.	Masters.	Of	From
Olive Branch	Bradley	Philadelphia	Philadelphia
Washington	Brown	Boston	St. Petersburg
Brutus	Fenno	do.	N. Orleans
Fame	Perry	Baltimore	
Andromeda	Laing	Bristol	Norway
Narraganset	Paine	do.	Bristol
Dorothea	Dougherty	Philadelphia	Philadelphia
Louisa	Rice	Salem	Salem
Delaware	Gill	New York	Petersburg
Experiment	Vibbert	do.	do.
Rachel	Mattenly	Boston	
Laura	Lambert	New York	New York
Lucia	Haskell	Boston	Boston
Columbine	Jones	New York	Petersburg
Herald	Graves	Salem	do.
William and Eliza	Howland	New Bedford	do.
Concordia	Johnson	New York	do.
Amiable Matilda	Hague	do.	N. York & N.
Swift	Daggett	Providence	Petersburg
Aurora	Curtis	Marblehead	Russia
Zodiac	Millar	New York	New York
Roboreas	Williams	Boston	Newport
Weymouth	Gardner	do.	do.
Phoenix	Freeman	New Bedford	London
Susannah	Cassan	Philadelphia	Petersburg
Agent	Row	do.	Philadelphia
Halcyon	Heelen	Boston	Boston
Ellen	Keating	Portland	Portland
Hector	Hetherington	Providence	Providence
Moses	Massey	Salem	Salem
Hero	Blackler	Marblehead	Marblehead
Radius	Lander	Boston	Newport
Richmond	Jervis	Philadelphia	Philadelphia
Minerva	Baker	Portland	Portland
Indian Queen	Hammond	New York	Lisbon
Washington	Brown	Newburyport	Newburyport
Dolphin	Latham	New York	
Maryland	Peters	do.	London
Neptune	Warner	Newburyport	Gottenburg
Bg. Comet	Dennis	Boston	New York
Washington	Story	Salem	Petersburg
Augustus	Flint	do.	do.
Union	Procter	Marblehead	do.
Ellen Maria	Adams	Newburyport	Riga
Swift	Clarkson	do.	Liebau
Sukey	Osgood	Salem	Petersburg
Jewitt	Robinson	Portland	do.
Hannah	Dennis	Newburyport	England
Two Generals	Courtois		St. Simons

<i>Vessels.</i>	<i>Masters.</i>	<i>Of</i>	<i>From</i>
Egeria	Law	New York	Christiansburg
Orestes	Allan	Kennebunk	Petersburg
Moses	Massey	Salem	Copenhagen
Nancy	Eveleth	Newburyport	Newburyport
America	Ward	Salem	New York
Jeremiah	Russell	do.	Salem
Lyon	Jones		
Hope	Perl	Salem	Petersburg
Betsey	Barker	Boston	do.
Cornelius	Bragdon	do.	do.
Alknomac	Irish	New York	do.
Horace	Leech	Salem	do.

We have already stated that her papers were all regular and legal. An act of the customhouse shows, that the Campeachy wood was imported in a vessel named the *Isabella*: the consignment of the cargo to the captain, and the want of a supercargo, are hinted at as suspicious; circumstances which often occur, and which are no index of simulation or fraud.

The captain was detained a month at Hamburg before he was permitted to come to Paris, and he was not able to arrive at this city before the 6th September, four days before the condemnation of the property; and in this short space of time he found it impossible to present the defence, of which he was preparing the materials.

Ship's Papers.

1. Register. 2. Mediterranean pass. 3. Sea letter. 4. Bill of lading. 5. Certificate of destination. 6. Roll of equipage. 7. Manifest. 8. Certificates for cargo. 9. Clearance. 10. Certificates of origin. 11. Decision of the Danish prize court.

DAVID BAILIE WARDEN.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.
MAY 26, 1812.

I COMMUNICATE to Congress, for their information, copies and extracts from the correspondence of the Secretary of State, and the minister plenipotentiary of the United States at Paris. These documents will place before Congress the actual posture of our relations with France.

JAMES MADISON.

Mr. Monroe to Mr. Barlow. Department of State, July 26, 1811.

SIR,—It is the desire of the President that you should set out, without delay, for Paris, to commence the duties of the office of minister plenipotentiary to the emperor of France, with which you are invested. A frigate prepared for your accommodation will receive you at Annapolis, and convey you to the most convenient port of that country. I enclose you a commission and letters of credence, with such other documents as are necessary to illustrate the subjects on which you will have to act.

With the ordinary duties of the office you are too well acquainted to require any comment on them in this letter. There are, however, some subjects of peculiar importance which will claim your attention immediately after your reception. On these it is proper that you should know distinctly the sentiments of the President.

The United States have claims on France, which it is expected that her government will satisfy to their full extent, and without delay. These are founded partly on the late arrangement, by which the non-importation law, of May 1, 1810, was carried into effect against Great Britain, and partly on injuries to their commerce, committed on the high seas and in French ports.

To form a just estimate of the claims of the first class, it is necessary to examine minutely their nature and extent. The present is a proper time to make this examination, and to press a compliance with the arrangement, in every circumstance, on its just principles, on the government of France. The President, conscious that the United States have performed every act that was stipulated on their part, with the most perfect good faith, expects a like performance on the part of France. He considers it peculiarly incumbent on him, to request such explanations from her government, as will dissipate all doubt of what he may expect from it in future on this as well as on every other question depending between the two nations.

By the act of May 1, 1810, it was declared, that in case Great Britain or France should, before the third day of March, 1811, so revoke or modify her edicts as that they

should cease to violate the neutral commerce of the United States, which fact the President should declare by proclamation, and if the other nation should not within three months thereafter revoke or modify its edicts in like manner, then the 3d, 4th, 6th, 7th, 8th, 9th, 10th and 18th sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France," &c. &c. should, from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies and dependencies, and to the articles the growth, produce or manufacture of the dominions, colonies and dependencies of the nation thus refusing or neglecting to revoke or modify its edicts, in the manner aforesaid.

This act having been promulgated and made known to the governments of Great Britain and France, the minister of the latter, by note bearing date on the 5th August, 1810, addressed to the minister plenipotentiary of the United States at Paris, declared that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st of November following, but that this measure was adopted in compliance with the law of May 1, 1810, to take advantage of the condition contained in it, and in full confidence that that condition would be enforced against Great Britain, if she did not revoke her orders in council, and renounce the new principles of blockade.

This declaration of the emperor of France was considered a sufficient ground for the President to act on. It was explicit, as to its object, and equally so as to its import. The decrees of Berlin and Milan, which had violated our neutral rights, were said to be repealed, to take effect at a subsequent day, at no distant period, the interval apparently intended to allow full time for the communication of the measure to this government. The declaration had, too, all the formality which such an act could admit of, being through the official organ on both sides, from the French minister of foreign affairs to the minister plenipotentiary of the United States, at Paris.

In consequence of this note from the French minister of foreign affairs, of the 5th August, 1810, the President proceeded on the 2d of November following, to issue the proclamation enjoined by the act of May 1, of the same

year, to declare that all the restrictions imposed by it should cease and be discontinued, in relation to France and her dependencies; and in confirmation of the proclamation of the President, the Congress did, on the 2d March, 1811, pass an act, whereby the non-importation system provided for by the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 18th sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies" was declared to be in force against Great Britain, her colonies and dependencies, with a provision in favour of such vessels or merchandise as might be seized before it was known that Great Britain had revoked or modified her edicts, within the time and in the manner required by the said act, if such should be the case; and with a provision also in favour of any ships or cargoes, owned wholly by citizens of the United States, which had cleared out for the Cape of Good Hope, or for any other port beyond the same, prior to the 2d day of November, 1810. Both of those provisions were, in strict justice and good faith, due to the parties to be affected by the law; they were also conformable to the spirit of the arrangement, to execute which the law was passed. As Great Britain did not revoke or modify her edicts, in the manner proposed, the first provision had no effect.

I will now inquire whether France has performed her part of this arrangement.

It is understood that the blockade of the British isles is revoked. The revocation having been officially declared, and no vessel trading to them having been condemned or taken on the high seas, it is fair to conclude that the measure is relinquished. It appears too, that no American vessel has been condemned in France for having been visited at sea by an English ship, or for having been searched or carried into England, or subjected to impositions there. On the sea, therefore, France is understood to have changed her system.

Although such is the light in which the conduct of France is viewed in regard to the neutral commerce of the United States since the 1st of November last, it will nevertheless be proper for you to investigate fully the whole subject, and see that nothing has been or shall be omitted

on her part, in future, which the United States have a right to claim.

Your early and particular attention will be drawn to the great subject of the commercial relation which is to subsist between the United States and France. The President expects that the commerce of the United States will be placed, in the ports of France, on such a footing as to afford to it a fair market, and to the industry and enterprise of their people a reasonable encouragement. An arrangement to this effect was looked for immediately after the revocation of the decrees ; but it appears from the documents in this department that that was not the case : on the contrary, that our commerce has been subjected to the greatest discouragement, or rather to the most oppressive restraints ; that the vessels which carried coffee, sugar, &c. &c. though sailing directly from the United States to a French port, were held in a state of sequestration, on the principle that the trade was prohibited, and that the importation of those articles was not only unlawful, but criminal ; that even the vessels which carried the unquestionable productions of the United States were exposed to great and expensive delays, to tedious investigations in unusual forms, and to exorbitant duties. In short, that the ordinary usages of commerce between friendly nations were abandoned.

When it was announced that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st of November last, it was natural for our merchants to rush into the ports of France, to take advantage of a market to which they thought they were invited. All these restraints, therefore, have been unjust in regard to the parties who suffered by them ; nor can they be reconciled to the respect which was due to this government. If France had wished to exclude the American commerce from her ports, she ought to have declared it to this government in explicit terms, in which case due notice would have been given of it to the American merchants, who would either have avoided her ports, or gone there at their own hazard. But to suffer them to enter her ports, under such circumstances, and to detain them there, under any pretext whatever, cannot be justified. It is not known to what extent the injuries resulting from those delays have been carried. It is evident, however, that for

every injury thus sustained, the parties are entitled to reparation.

If the ports of France and her allies are not opened to the commerce of the United States on a liberal scale and on fair conditions, of what avail to them, it may be asked, will be the revocation of the British orders in council? In contending for the revocation of those orders, so far as it was an object of interest, the United States had in view a trade with the continent. It was a fair and legitimate object and worth contending for while France encouraged it; but if she shuts her ports on our commerce, or burdens it with heavy duties, that motive is at an end.

That France has a right to impose such restraints is admitted; but she ought to beware of the consequences to which they necessarily lead. The least that ought to be expected to follow, would be such countervailing restrictions on the French commerce as must destroy the value of the intercourse between the two countries, and leave to the United States no motive of interest to maintain their right to that intercourse, by a sacrifice of any other branch of their commerce. Adequate motives to such a sacrifice could only be found in considerations distinct from any reasonable pretensions on the part of France.

To the admission of every article, the produce of the United States, no objection is anticipated; nor does there appear to be just cause for any, to the admission of colonial produce. A supply of that produce will be annually wanted in France and other countries connected with her, and the United States alone can furnish it during the war. It will doubtless be the interest of France and her allies to avail themselves of the industry and capital of the American merchants, in furnishing those articles by which the wants of their people will be supplied, and their revenue increased. Several of the colonies belonged to France, and may again belong to her. Great Britain, by securing to her own colonies the monopoly of the home market, lessens the value of the produce of the conquered colonies. France cannot be indifferent to the distresses of her late colonies, nor ought she to abandon, because she cannot protect them. In pressing this important object on the government of France, it will not escape your attention that several important arti-

cles in the list of colonial productions, are raised in Louisiana, and will of course be comprised among those of the United States.

You will see the injustice, and endeavour to prevent the necessity of bringing, in return for American cargoes sold in France, an equal amount in the produce or manufactures of that country. No such obligation is imposed on French merchants trading to the United States. They enjoy the liberty of selling their cargoes for cash, and taking back what they please from this country in return, and the right ought to be reciprocal.

It is indispensable that the trade be free; that all American citizens engaged in it be placed on the same footing; and with this view, that the system of carrying it on by licenses granted by French agents, be immediately annulled. You must make it distinctly understood by the French government, that the United States cannot submit to that system, as it tends to sacrifice one part of the community to another, and to give a corrupt influence to the agents of a foreign power in our towns, which is in every view incompatible with the principles of our government. It was presumed that this system had been abandoned some time since, as a letter from the duke of Cadore of to Mr. Russell gave assurance of it. Should it however be still maintained, you will not fail to bring the subject without delay before the French government, and to urge its immediate abandonment. The President having long since expressed his strong disapprobation of it, and requested that the consuls would discontinue it, it is probable, if they still disregard his injunction, that he may find it necessary to revoke their exequaturs. I mention this that you may be able to explain the motive to such a measure, should it take place, which, without such explanation, might probably be viewed in a mistaken light by the French government.

It is important the rate of duties imposed on our commerce in every article, should be made as low as possible. If they are not they may produce the effect of a prohibition: they will be sure to depress the article and discourage the trade.

You will be able to ascertain the various other claims which the United States have on France for injuries done to their citizens, under decrees of a subsequent date to

those of Berlin and Milan, and you will likewise use your best exertions to obtain an indemnity for them. It is presumed that the French government will be disposed to do justice for all these injuries. In looking to the future, the past ought to be fairly and honourably adjusted. If that is not done, much dissatisfaction will remain here, which cannot fail to produce a very unfavourable effect on the relations which are to subsist in future between the two countries.

The first of these latter decrees bears date at Bayonne, on the 17th of March, 1808, by which many American vessels and their cargoes were seized and carried into France, and others which had entered her ports in the fair course of trade, were seized and sequestered, or confiscated by her government. It was pretended, in vindication of this measure, that as, under our embargo law, no American vessel could navigate the ocean, all those who were found on it, were trading on British account, and lawful prize. The fact, however, was otherwise. At the time the embargo was laid, a great number of our vessels were at sea engaged in their usual commerce, many of them on distant voyages. Their absence, especially as no previous notice could be given to them, was strictly justifiable under the law; and as no obligation was imposed on them by the law to return, they committed no offence by remaining abroad. Other vessels, inconsiderable in number, left the United States in violation of the law. The latter committed an offence against their country, but none against foreign powers. They were not *disfranchised* by the act. They were entitled to the protection of their government, and it had a right to inflict on them the penalty which their conduct had exposed them to. The government of France could withdraw them from neither of these claims. The absence of none of these vessels was a proof that they were trading on British account. The cargoes which they carried with them, the value of which was much enhanced by the embargo, were alone an ample capital to trade on. As the pretext under which these vessels were taken is no justification of the act, you will claim an indemnity to our citizens for every species of injury arising from it.

The Rambouillet decree was a still more unjustifiable aggression on the rights of the United States, and invasion of the property of their citizens. It bears date on the

23d of March, 1810, and made a sweep of all American property within the reach of French power. It was also retrospective, extending back to the 20th of May, 1809. By this decree every American vessel and cargo, even those which had been delivered up to the owners by compromise with the captors, were seized and sold. The law of March 1st, 1809, commonly called the non-intercourse law, was the pretext for this measure, which was intended as an act of reprisal. It requires no reasoning to show the injustice of this pretension. Our law regulated the trade of the United States with other powers, particularly with France and Great Britain, and was such a law as every nation has a right to adopt. It was duly promulgated and reasonable notice given of it, to other powers. It was also impartial as it related to the belligerents. The condemnation of such vessels of France or England as came into the ports of the United States in breach of this law, was strictly proper, and could afford no cause of complaint to either power. The seizure of so vast a property as was laid hold of under that pretext by the French government, places the transaction in a very clear light. If an indemnity had been sought for an imputed injury, the measure of the injury should have been ascertained, and the indemnity proportioned to it. But in this case no injury had been sustained on principle. A trifling loss only had been incurred, and for that loss all the American property which could be found was seized, involving in indiscriminate ruin innocent merchants who had entered the ports of France in a fair course of trade. It is proper that you should make it distinctly known to the French government that the claim to a just reparation for these spoliation cannot be relinquished, and that a delay in making it will produce very high dissatisfaction with this government and people of these States.

It has been intimated that the French government would be willing to make this reparation, provided the United States would make one in return for the vessels and property condemned under and in breach of our non-intercourse law. Although the proposition was objectionable in many views, yet this government consented to it, to save so great a mass of the property of our citizens. An instruction for this purpose was given to your predecessor, which you are authorized to carry into effect.

The influence of France has been exerted to the injury of the United States in all the countries to which her power has extended. In Spain, Holland and Naples it has been most sensibly felt. In each of those countries the vessels and cargoes of American merchants were seized, and confiscated under various decrees founded in different pretexts, none of which had even the semblance of right to support them. As the United States never injured France, that plea must fail; and that they had injured either of those powers was never pretended. You will be furnished with the documents which relate to these aggressions, and you will claim of the French government an indemnity for them.

The United States have also just cause of complaint against France for many injuries that were committed by persons acting under her authority. Of these the most distinguished, and least justifiable, are the examples which occurred of burning the vessels of our citizens at sea. Their atrocity forbids the imputation of them to the government. To it, however, the United States must look for reparation, which you will accordingly claim.

It is possible that in this enumeration, I may have omitted many injuries of which no account has yet been transmitted to this department. You will have it in your power to acquire a more comprehensive knowledge of them at Paris, which, it is expected, you will do, and full confidence is reposed in your exertions to obtain of the French government the just measure of redress.

France, it is presumed, has changed her policy towards the United States. The revocation of her decrees is an indication of that change, and some recent acts, more favourable to the commercial intercourse with her ports, the evidence of which will be found in a copy of a letter from her minister here of strengthen the presumption. But much is yet to be done by her, to satisfy the just claims of this country. To revoke blockades of boundless extent, in the present state of her marine, was making no sacrifice. She must indemnify us for past injuries, and open her ports to our commerce, on a fair and liberal scale. If she wishes to profit of neutral commerce, she must become the advocate of neutral rights, as well by her practice as her theory. The United States, standing on their own ground, will be able to sup-

port those rights with effect; and they will certainly fail in nothing which they owe to their character or their interests.

The papers relative to the *Impeteux*, the *Ravanche de Cerf*, and the French privateers seized at New Orleans, will be delivered to you. They will, it is presumed, enable you to satisfy the French government of the strict propriety of the conduct of the United States in all those occurrences.

The frigate which takes you to France will proceed to Holland, to execute an order from the Secretary of the Treasury, relative to the interest due on the publick debt. She will return to France, to take Mr. Russell to England, and after landing him there, sail back immediately for the United States. The interval afforded by her visit to Holland will be sufficient to enable you to communicate fully and freely with the French government on all the topics, to which it will be your duty to invite its attention, under your instructions. A short detention, however, would not be objected to, if you deemed it important to the interests of the United States.

I have the honour to be, &c.

JAMES MONROE.

Joel Barlow, Esq. &c. &c.

Mr. Monroe to Mr. Barlow. Department of State, Nov. 21, 1811.

SIR,—I have the honour to transmit to you a copy of the President's message to Congress at the commencement of the session, and of the documents which accompanied it.

In this very interesting communication you will find that the President has done justice to both the belligerents. He has spoken of each as it deserves. To France he has given the credit due for the revocation of her decrees, while he has bestowed on those injuries which remain undressed, their merited censure. Of England he has spoken in terms of censure only, because she had in no respect changed her unfriendly policy. Thus the whole subject of our foreign relations is presented fully and fairly before the legislature and the publick, and, I am happy to

add, that so far as an opinion can now be formed of the impression made, the publick sentiment is in strict harmony with that expressed by the Executive. Few, if any, seem to be willing to relinquish the ground which has been taken by the non-importation act; and most seem to be resolved, if Great Britain does not revoke her orders in council, to adopt more decisive measures towards her.

If the United States experience any embarrassment in the course which they are pursuing in support of their rights, or fail in the ultimate success, it will be owing to the conduct of the French government. It cannot be doubted, if France remains true to her engagements, by a faithful observance of the revocation of her decrees, and acquits herself on the various other points on which you are instructed, to the just claims of this country, that Great Britain will be compelled to follow her example, in which event the war will immediately assume a new character, such as has been the professed wish of both belligerents, mitigating its calamities to both of them, as well as diffusing the happiest effects on neutral states.

The part which France ought to act is a plain one. It is dictated in every circumstance, by the clearest principles of justice, and soundest maxims of policy. The President has presented to view, in the message to Congress, the prominent features of this plan, by stating equally our rights and injuries. It will scarcely be necessary for me to go into any of the details, which are already so well known to you. I will briefly advert to them.

It is not sufficient on the final decision of a cause, brought before the French tribunal, that it should appear that the French decrees are repealed. An active prohibitory policy should be adopted to prevent seizures on the principles of those decrees. All that is expected is that France will act in conformity to her own principles. If that is done, neutral nations would then have an important object before them, and one belligerent, at least, prove that it contended for principle rather than for power: that it sought the aid of neutral nations in support of that principle, and did not make it a pretext to enlist them on its side, to demolish its enemies. The abuses that are practised by French privateers in the Baltick, the Channel, Mediterranean and wherever else they cruise, have, of late more especially;

reached an enormous height. In the Baltick they have been the more odious from the circumstances that it was expected that they had been completely suppressed there. Till of late these abuses were imputed to the privateers of Denmark, which induced the President to send a special mission to the Danish government, which, it was understood, was producing the desired effect. But it is now represented that the same evil is produced by a collusion between the privateers of Denmark and those of France. Hence it assumes a worse character. To seizures equally unlawful, is added, by carrying the causes to Paris, still more oppressive delays.

If the French government is not willing to adopt the general rule alluded to, in favour of American commerce, it is presumed that it will not hesitate to define explicitly the causes of seizure, and to give such precise orders to its cruisers respecting them, with an assurance of certain punishment to those who violate them, as will prevent all abuse in future. Whatever orders are given, it would be satisfactory to this government, to be made acquainted with them. The President wishes to know, with great accuracy, the principles by which the French government intends to be governed, in regard to neutral commerce. A frank explanation on this subject, will be regarded as a proof of the friendly policy which France is disposed to pursue towards the United States.

What advantage does France derive from these abuses? Vessels trading from the United States can never afford cause of suspicion on any principle, nor ought they to be subject to seizure. Can the few French privateers which occasionally appear at sea, make any general impression on the commerce of Great Britain? They seldom touch a British vessel. Legitimate and honourable warfare is not their object. The unarmed vessels of the United States are their only prey. The opportunities of fair prize are few, even should France maintain the British principle. Can these few prizes compensate her for the violation of her own principles, and for the effect which it ought, and cannot fail to produce here?

Indemnity must be made for spoiliations on American property under other decrees. On this subject it is unnecessary to add any thing to your present instructions. They are detailed and explicit.

The trade by licenses must be abrogated. I cannot too strongly express the surprise of the President, after the repeated remonstrances of this government, and more especially after the letter of the duke of Cadore to Mr. Russell, of the last, informing him that that system would fall with the Berlin and Milan decrees, that it should still be adhered to. The exequaturs of the consuls who have granted such licenses, would long since have been revoked, if orders to them to discontinue the practice, had not daily been expected, or in case they were not received, the more effectual interposition of Congress to suppress it. It will certainly be prohibited by law, under severe penalties, in compliance with the recommendation of the President, if your despatches by the Constitution do not prove that your demand on this subject has been duly attended to.

• It is expected also that the commerce between the United States and France and her allies, will be placed on the basis of a fair reciprocity. If the oppressive restrictions which still fetter and harass our commerce there are not removed, it cannot be doubted that Congress will, as soon it appears that a suitable change may not be expected, impose similar restraints on the commerce of France. Should such a state of things arise between the two countries, you will readily perceive the obvious tendency, or rather certain effect, on the relations which now subsist between them.

This is a short sketch of the policy which it is expected France will observe in regard to neutral commerce, and the other just claims of the United States. A compliance with it will impose on her no onerous condition; no concessions in favour of the United States. She will perform no act which she is not bound to perform, by a strict regard to justice. She will abstain from none, the abstinence from which is not dictated by the principles which she asserts and professes to support. What is also of great importance, the cause pointed out cannot fail to prove, in all its consequences, of the highest advantage to her.

Among the measures necessary to support the attitude taken by this government, it is more than probable that a law will pass authorizing all merchant vessels to arm in their own defence. If England alone, by maintaining her

orders in council, violates our neutral rights, with her only can any collision take effect. But in authorizing merchant vessels to arm, the object will be to enable them to support their rights against all who attempt to violate them. This consideration ought to afford a strong additional motive to France, to inhibit her privateers from interfering with American vessels. The United States will maintain their neutral rights equally against all nations who violate them.

You will find among the documents which accompanied the President's message, a correspondence between Mr. Foster and me, by which the difference relative to the attack on the Chesapeake, is terminated. It was thought advisable not to decline the advance of the British government on this point, although none was made on any other; and as the terms offered were such as had been in substance approved before, to accept them. The adjustment however of this difference does not authorize the expectation of a favourable result from the British government on any other point. This government will pursue the same policy towards Great Britain in regard to other injuries, as if this had not been accommodated.

You will also find among the printed documents a correspondence with Mr. Foster respecting the Floridas. To his remonstrance against the occupation of West Florida by the troops of the United States, he was told that it belonged to them by a title which could not be improved. And to that relative to East Florida, he was informed that Spain owed the United States for spoliations on their commerce, and for the suppression of the deposit at New Orleans, more than it was worth; that the United States looked to East Florida for their indemnity; that they would suffer no power to take it, and would take it themselves, either at the invitation of the inhabitants, or to prevent its falling into the hands of another power. With so just a claim on it, and without any adverse claim, which, under existing circumstances, is any wise sustainable, more especially as the necessary severance of the Spanish colonies from Old Spain is admitted, and the known disposition and interest of the inhabitants are in favour of the United States, the idea of purchasing the territory, otherwise than as it has been already more than paid for in the property wrongfully taken from the citizens of the United

States, does not merit, and has not received a moment's consideration here. You will therefore discountenance the idea every where and in every shape.

You will be furnished with a copy of my correspondence with Mr. Serrurier on the subject of a vessel called the Ballaou, No. 5, (formerly the Exchange) bearing a commission from the emperor of France, lately libelled in the district court of the United States for Pennsylvania. The decision of that court was in favour of a discharge of the vessel. An appeal was taken from it to the circuit court, by which the sentence was reversed. The cause was then carried by appeal, at the instance of the government, to the supreme court of the United States, where it is now depending. The whole process in favour of the French government is conducted on the part of, and at the expense of the United States, without, however, making themselves a party to it.

This vessel is one of those that were seized under the Rambouillet decree. The French government took her into service, as appears by the documents in possession of the commandant, and sent her with despatches to some distant quarter. She came into the port of Philadelphia, as it is said, in distress. She having on board a cargo, distress may have been a pretext. As this government denies the justice of the Rambouillet decree, has remonstrated against, and expects an indemnity for losses under it, you will be sensible of the delicacy and difficulty which it has experienced in interfering, in any respect, in the case. To take the vessel from the court, and of course from the owner, and restore her to the French consul or other agent, even if under any circumstances lawful, would have excited universal discontent. I cannot dismiss this subject without remarking, that if the government of France had not violated the rights of the United States, by the Rambouillet decree, this case would not have occurred; and that it is painful to see a question connected with the public law originate under such circumstances.

The publick vessel which takes these despatches to you, has others for our charge d'affaires at London. After landing Mr. Biddle, who is the bearer of yours, at some port in France, she will proceed immediately to the English coast and land Mr. Tayloe, the messenger who is

charged with those for London. It is expected that she will be subject to a short delay only on the English coast, and that your despatches will be prepared for her on her return to France. It is highly important to this government, to obtain without delay, or rather with the greatest possible despatch, correct information from you, and from our charge d'affaires at London, of the policy adopted and the measures which have been already taken on the important interests depending with each government, on which you have been respectively instructed. A short detention of the vessel for an obvious and useful purpose, as intimated heretofore, will not be objected to. But such a delay as has, on some occasions occurred, is utterly inadmissible.

I have the honour to be, &c.

JAMES MONROE.

Joel Barlow, Esq. &c. &c.

No. 1.

Extract of a Letter from Mr. Barlow to the Secretary of State. Paris, September 29, 1811.

"I SEIZE the first occasion to announce to you my arrival, though I have very little else to announce.

"I landed at Cherburg the 8th of this month, and arrived at Paris the 19th.

"The emperor has been residing for some time at Compeigne, and it unluckily happened that he set out thence for the coast and for Holland, the day of my arrival here.

"The duke of Bassano, minister of foreign relations, came the next day to Paris, for two days only, when he was to follow the emperor, to join him in Holland. General Turreau and others who called on me the morning after I reached Paris, assured me that the duke was desirous of seeing me as soon as possible, and with as little ceremony.

"On the 21st, I made my first visit to him, which of course, had no other object than that of delivering my credentials. I expressed my regret at the emperor's absence, and the consequent delay of such business as was rendered particularly urgent by the necessity of sending

home the frigate, and by the approaching session of Congress; as well as by the distressed situation of those American citizens, who were waiting the result of decisions which might be hastened by the expositions which I was charged to make on the part of the President of the United States.

"He said the emperor had foreseen the urgency of the case, and had charged him to remedy the evil so far as could be done, by dispensing with my presentation to his majesty, till his return; and that I might immediately proceed to business, as if I had been presented. He said the most flattering things from the emperor relative to my appointment. He observed that his majesty had expected my arrival with some solicitude for several months, and was disposed to do every thing that I could reasonably ask, to maintain a good intelligence between the two countries.

"The duke then proposed a second interview for the next day, which he said he hoped would be long and leisurely, that we might go over the whole range of business that was likely to come into discussion between us, declaring that he should be justified by the emperor in delaying his journey one day, for that purpose only, and that he had no other business to detain him in the capital. I accepted the invitation, and was with him two hours the next day.

"I explained to him with as much precision as possible, the sentiments of the President on the most pressing objects of my mission; and threw in such observations as seemed to arise out of what I conceived to be the true interests of France.

"He heard me with patience and apparent solicitude; endeavoured to explain away some of the evils of which we complain, and expressed a strong desire to remove the rest. He said that many of the ideas I suggested were new to him, and were very important; that he should lay them before the emperor with fidelity, and in a manner calculated to produce the most favourable impression; desired me to reduce them to writing, to be presented in a more solemn form, and endeavoured to convince me that he doubted not our being able, on the return of the emperor, to remove all obstacles to a most perfect harmony between the two countries."

No. 2.

Extract of a Letter from Mr. Barlow to the Secretary of State. October 29, 1811.

"THE emperor stays in the north much longer than was expected. Having been assured by the minister that he would return by the 15th of October, and that during his tour he would make no stay in any one place, I concluded, as I had the honour to state to you before, not to follow him. The frigate Constitution did not return from Holland till about the time that the emperor was to have reached Fontainebleau, and during the last fourteen days the publick has been in constant expectation of his arrival.

"As the minister of foreign relations, and indeed most of the other ministers, are with him, it has not been in my power to bring forward, to advantage, any proposition on the great objects of my mission. For I was convinced, for reasons mentioned in my first despatch, that these objects can be treated to the best advantage in presence, when frequent conversations can be mingled with formal official notes.

"My correspondence with the minister, therefore, has been hitherto confined to incidental matters not worth troubling you with.

"It is now so fully believed that the emperor will be here about the 10th of November, and it seems so important that something of a decisive nature should be communicated to you by the frigate, that it is thought best by captain Hull as well as myself, that she should go first over to Cowes with Mr. Russell, and return to Cherburg for my despatches for you."

No. 3.

Extract of a Letter from Mr. Barlow to the Secretary of State. Paris, November 21, 1811.

"ON the 9th of this month the duke of Bassano arrived in Paris, and signified his arrival by a circular to the foreign ministers here. The next day at one o'clock, I

called at his house, having in my pocket the note dated 10th of November.

"My intention was, if possible, to have an interview with him before he should read the note, to prepare his mind on some points which, being new to him, might be susceptible of farther development than it would be convenient to give in writing.

"Not finding the duke at home I left the note, enclosing with it a written request for an interview, after he should have read the note. As yet I have no answer; but having met him once since, he assured me that a very great press of business occupied him every day at St. Cloud. He gave me no other reason for the delay thus far; and I have learnt, through other channels, that they are discussing in the emperor's council of commerce and of state, the principal points in my note. If this discussion is in good earnest, I shall probably have an answer of some sort before many days."

[ENCLOSED IN NO. 3.]

Extract of a Letter from Mr. Barlow to the Duke of Bassano. Paris, Nov. 10, 1811.

"FOR all these considerations and others which I have had the honour to explain to your excellency in conversation, I am confident that I shall urge nothing contrary to the true interests of France, when I propose that his majesty the emperor and king should order a prompt and effectual execution of the arrangement of the 5th of August and 2d of November in the true and liberal spirit in which it was proposed; so that the privations which the United States imposed upon themselves by excluding the productions of Great Britain and her dependencies, should, as far as circumstances will allow, be compensated by a free access to those of the continent of Europe, and that they may carry thither such means of purchasing those productions, as their own soil and industry, those of other neutral nations, and those of the French colonies, will furnish.

"Should his majesty adopt this principle, the means of arriving at the end are so obvious that it will not greatly add to the length of this note, if I here point them out.

First, Let the American ships and cargoes now under seizure, capture, or sequestration, and the proceeds of such as have been sold, which are now reserved for the party having right, be immediately restored to their owners, and they declared free to depart therewith for their country. This article is not intended to embrace any thing but genuine American property, as protected by the acknowledged law of nations.

"Second. Such property, acknowledged to be American, as has been confiscated and no longer in a state to be restored, will remain to be paid for in some manner the least onerous to the French treasury, to be determined on by a separate convention.

"Third. A signification of his majesty's pleasure, if such it be, to form a new commercial treaty with the United States, on principles of reciprocity, both with respect to the rate of duties (as far as the different nature of the objects of our mutual commerce will permit) and the facility of buying and selling, entering and departing with such articles as shall be agreed upon, the produce of their respective countries, colonies, territories and dependencies.

"One principal reason why a system of this kind has been deferred so long has doubtless been the difficulty of distinguishing American from English property, and of ascertaining the origin of produce. We regret as much as you can the frauds that have been committed in this respect: our honour as well as interest is concerned in suppressing them. We are ready to enact and inflict penalties, and agree with the French government on the marks, signals, or other measures most proper to attain the end.

"I beg your excellency not to consider it improper or indiscreet in me to close this note by suggesting a cogent reason for desiring as speedy an answer to the principal propositions, as the other weighty concerns of your department will admit. The frigate which brought me to France is detained only for this answer. Congress is now beginning its session, and the President will be anxious to lay before it as early as possible the result of these propositions; and it has happened unluckily that my arrival here at the moment of the emperor's departure has already occasioned a considerable loss of time."

No. 4.

Extract of a Letter from Mr. Barlow to the Secretary of State. Paris, Dec. 19, 1811.

"SINCE the date of my last (21st November) I have had many interviews with the minister of foreign relations. I have explained several points, and urged every argument for as speedy an answer to my note of the 10th, as its very serious importance would allow. He always treats the subject with apparent candour and solicitude. seems anxious to gain information, declares that neither he nor the emperor had before understood American affairs in the light in which they now appear, and always assures me that he is nearly ready with his answer.

"But he says the emperor's taking so long a time to consider it and make up his decision, is not without reason, for it opens a wide field for meditation on very interesting matters. He says the emperor has read the note repeatedly and with great attention; that he told him the reasoning in it was every where just and the conclusions undeniable; but to reconcile its principles with his continental system, presented difficulties not easy to remove.

"From what the emperor told me himself at the last diplomatic audience, and from a variety of hints and other circumstances remarked among the people about his person, I have been made to believe that he is really changing his system relative to our trade, and that the answer to my note will be more satisfactory than I had at first expected. But the unexpected and unreasonable delay has almost discouraged me of late.

"I am extremely anxious to despatch the frigate, and had I imagined the delay would have been so great, I would not have ordered her to return after landing Mr. Russell in England. There is however a kind of consolation thus far: the captain writes me, that had she been ready to sail three weeks ago, the weather has been such ever since that she could not have left the port by this time.

"I hope, and am pretty certain now, that I shall despatch the messenger, Mr. Morris, in five or six days at latest.

"I send this by a Mr. Odin, of Boston, by way of England. I have given him a passport as bearer of despatches, and he goes by Morlaix, without expense to the United States."

No. 5.

Extract of a Letter from Mr. Barlow to the Secretary of State. Paris, Dec. 31, 1811.

"I HAVE now the honour to send you the answer of the duke of Bassano, to my note of the 10th November, accompanied by a triplicate copy of that note.

This answer, if understood in its most liberal sense, may doubtless be considered full and satisfactory as a basis for the future commercial relations between the two countries; for we can ask nothing better than a perfect reciprocity of advantages in those relations. But although an official declaration of the emperor's intention and readiness to conclude a treaty on such principles, may be fairly taken as an adoption of the principles; yet considering the irritation of the publick mind in the United States, arising from recent injuries, and the difficulty with which it can be brought to believe in a change of system, so suddenly adopted and so vaguely announced, I thought it best to obtain, if possible, a more precise declaration as to certain points which had created so much difficulty.

Accordingly I asked an interview with the duke for the 28th. I went to him on that day with a paper in my hand, of which I here enclose a translation.

My intention was to induce him to sign that paper, or the principles it contained, either in its present form or in such other form as he might deem more consonant with the dignity of his government, such as putting them into the answer to a letter which I might write him, if he should think that the most eligible method.

After we had read over the paper together, and I had explained the motives of my proposition, he replied that every one of those principles was adopted by the emperor and would enter into the treaty, and therefore it would be useless to announce them in a separate declaration. I

endeavoured to convince him of the advantages that would result to France as well as the United States from an immediate restoration of confidence among the American merchants. The great want of flour in France as well as Spain, and the accumulation of French produce perishing on hand for want of foreign commerce were sufficient reasons for seizing the first occasion, not inconsistent with the emperor's general system, for giving activity to neutral capital in the ports of the empire.

He then copied the heads of my paper and said he would lay the proposition before the emperor, and give me an answer the next day. I did not, however, get this answer till last night. He then invited me to an interview; and after reading over the paper as before, and commenting on every clause, he declared the emperor's decision precisely to the following effect: "It is not proper for me to sign this declaration; but you may notify it to your government, word for word, as if it were signed; for the principles are all adopted, and from this day forward they will be in operation. I have given the order to the chief of the customs for what concerns his department; the court of prizes is ordered to expedite its part of the business, and I shall instruct the consuls to give the certificates of origin. But you will observe this regards only the produce of the United States. Colonial produce cannot for the present be admitted, even in a French vessel, on a simple certificate of origin, without a special license."

I then desired him to cause one more order to be given from the proper department, to the effect of repressing the rapacity of privateers. The emperor owed it to his own dignity to order his courts to subject, at least, to cost and damages the owners of such privateers as should capture innocent ships without a pretext; a business that was long known to be carried on, as well it might be, under the present system of certain impunity, with the sure prospect of a great deal of partial plunder, and the hope of an advantageous compromise with the claimants. He acknowledged that something ought to be done in the case.

His observation on colonial produce induced me to bring up again the subject of special licenses, repeating what I had often stated before, the just objection that the President had instructed me to insist upon against that

system. He said that if the President desired it, it should be discontinued; but they had not yet been able to find a substitute. He declared to me, as he has often done before, that the emperor would do any thing on this subject that should be most agreeable to the United States, provided it did not open a door to the introduction of English produce.

He always insists upon it, that the special licenses are a clear advantage, as far as they go, to the commerce and navigation of the United States. The system is an extension of favour to them, in as much as it relaxes the principle of the French navigation act, which confines the carrying trade of the colonies to French ships.

He added that the emperor did not pretend that this was out of pure friendship to the Americans. "We have need of coffee and sugar—we can get our supply in this way; but if you can point out another that shall be more agreeable to the President, without giving us the produce of English colonies, we shall adopt it."

Thus I think, sir, you have the whole idea before you, and I should be glad to receive your farther instructions on the subject.

Should it be the intention of the President that I should proceed in the treaty of commerce, it will be necessary likewise to give me instructions as precise as may be on all the essential points that you wish to enter into it.

[ENCLOSED IN NO. 5.]

Translation of a Letter from the Duke of Bassano to Mr. Barlow. Paris, December 27, 1811.

THE undersigned, minister of foreign relations, has laid before his majesty the emperor and king, the note which Mr. Barlow, minister plenipotentiary of the United States of America, addressed to him on the 10th of last month.

If, since the revocation of the decrees of Berlin and Milan, the commerce between France and the United States has had but little activity, the cause must be sought for in the outrages which the British government has exercised against the flag of the United States and against the French flag, and in the cruisers (*croisières*) which it

has established on the ocean and on the Mediterranean, on the coasts of France, and on those of America.

The undersigned has in his bureau a memorandum of a great number of American vessels taken at the entrance of the rivers of France, and the English papers every day mention that these vessels are condemned and delivered up to the captors, for having violated the blockade of 1806, or other orders of the British council.

Those American vessels which have escaped the enemy, and have entered the ports of France, have sold their merchandise to advantage, have taken return cargoes, and realized a profit on them, notwithstanding the enormous insurance they have been obliged to pay on account of the risk they run from British cruisers.

If the flag of the United States was respected; if it enjoyed the rights guaranteed to the navigation of neutrals by the law which has existed from time immemorial on this subject, and of which the treaty of Utrecht has especially recognized the principles, the commerce between the two countries would have its full development, and the relations of the citizens of the United States, with the empire, would open to their activity, sources of considerable profit.

In fact the tariff of the 5th August, established duties which are paid by the consumers, and which can have no other influence than on the price of the articles. The duties of two or three hundred per cent. laid in England on wines, on teas, and on many other articles, for a long time past, are, in like manner, nothing more than duties of consumption, which have no other effect than to raise the price, without, in any manner, injuring the commerce in them.

The merchants of the United States are not subjected in France to any duties, or to any obligations that are not equally imposed on French commerce, of which they moreover partake all the advantages. And whilst, in the United States, cargoes imported in French vessels pay ten per cent. more than if they had been imported in American vessels, the flag of the United States is treated in France as the imperial flag.

Nevertheless, a treaty of commerce, bottomed on the principle of a perfect reciprocity, could not fail to be entirely advantageous to both countries. The undersign-

ed is authorized to negotiate, conclude, and sign such a treaty. It is with a lively satisfaction that he makes known to the minister plenipotentiary of the United States, the intentions of his majesty on this important object. The United States will be entirely satisfied on the pending questions (*questions actuelles*) and there will be no obstacle to their obtaining the advantages they have in view, if they succeed in making their flag safe.

The undersigned has the honour to renew to Mr. Barlow, minister plenipotentiary of the United States, the assurance of his high consideration.

THE DUKE OF BASSANO.

[ENCLOSED IN NO. 5.]

THE minister plenipotentiary of the United States, and the undersigned minister of foreign relations, being respectively authorized and now ready to negotiate and conclude a treaty of commerce between the two countries, and as several months must elapse before such a treaty can be completed and ratified, during which time their commercial interests may suffer loss from the uncertainty now existing in the United States relative to certain points that are intended to enter into that treaty, the undersigned declares it to be the emperor's pleasure that in this interval the commerce of the United States in their own produce and that of the French colonies shall be free in his ports: that is to say, the formalities necessary to prove the property and origin of the goods, shall be as simple and expeditious as the nature of the cases will permit.

No cause whatever shall warrant the capture or detention of an American vessel at sea, or her seizure in a French port, or in any other port by French authority, but a well grounded suspicion of forgery in her papers.

No other papers shall be required but the passport and clearance by the American authorities, and a certificate of origin by a French consul; and the French consuls in the United States are ordered to give such certificates.

His majesty will cause the liberation of all the remaining ships and cargoes now in his ports belonging to Ame-

rican citizens, as fast as the necessary inquiries, now going on, shall prove them to be such.

[ENCLOSED IN MR. BARLOW'S NO. 5.]

Translation of a Letter from the Duke of Bassano to Mr. Barlow. Paris, Dec. 21, 1811.

SIR,—I have the honour to announce to you that his majesty the emperor, by a decision of the 12th of this month, has ordered to be placed at the disposition of their government, twenty-three Americans, whom the town of Dantzic had by mistake comprised in a levy of sailors it had to furnish to France. These sailors had been sent to Antwerp, and afterwards to Rochefort, and these successive removals having rendered impracticable the immediate proof of their citizenship, every decision on that subject was necessarily deferred.

The usage is to deliver to the nearest consul those who are claimed by his government, therefore, the twenty-three American sailors could not be sent directly from Rochefort to Cherbourg, as you desired, but the minister of marine has directed the maritime prefect of Rochefort to have them struck off the rolls, and to send them to Rochelle, there to be put at the disposition of the consul of the United States.

I hasten, sir, to apprise you of this, and I have the honour to renew the assurance of my high consideration.

THE DUKE OF BASSANO.

No. 6.*

Mr. Barlow to the Secretary of State. Paris, January 4, 1812.

SIR,—Though Mr. Morris has been gone thirty-six hours, I send this by the mail, to take its chance of reaching Cherbourg before the sailing of the frigate, just to say that Mr. Biddle, the messenger by the *Hornet*, has reached me. I have scarcely had time to open the packets, but shall lose no time in obeying your instructions as far

*Not numbered by Mr. Barlow.

as I am able, as soon as I find what they are. And I hope not to detain the *Hornet* after her return from England.

With great respect and attachment, your obedient servant,

J. BARLOW.

TRANSLATION.

*Copy of a Letter from the Duke of Bassano to Mr. Barlow.
Paris, January 8, 1812.*

SIR,—You did me the honour to apprise me on the 15th of December, that a certain number of Americans, making part of the crews of different vessels captured and carried into our ports, found themselves detained in France as prisoners of war. Evidence taken on their persons and on board the vessels in which they served, denotes that eight among them have been seized under a neutral flag. Those named *Joel Wicker*, *Judah Swift*, *Herman Dickinson*, served on board the American ship *Friendship*. *Littleton Addison*, *William Banks*, *Martin Kelly*, and *Richard Miller*, belonged to the American ship *Spanish Lady*; and *John Beadley* to the Pappenburgh vessel the *Catharine*.

His majesty the emperor, upon the report which I have presented to him, has ordered that these eight seamen, whatever may have been the causes of the capture of their vessels, be placed at the disposition of their government.

The ancient decisions applicable to all seamen making part of the crew of an *enemy vessel*, whatever may be their citizenship, (*nationalité*) do not permit to be extended to American seamen found under such circumstances, the friendly measure of which I have the honour to inform you.

Accept, sir, the assurances of my high consideration.

THE DUKE OF BASSANO.

Joel Barlow, Esq. &c.

No. 6.

Extracts of a Letter from Mr. Barlow to the Secretary of State. Paris, Jan. 28, 1812.

“In consequence of the note of the minister of foreign relations, (of which I had the honour of sending you a

copy by the frigate, and now send another copy) announcing that he was authorized to negotiate and sign a treaty of commerce on principles of perfect reciprocity, I had some personal conferences with him on the nature of those principles. I then drew up the project of a treaty, and sent it to him on the 17th inst.

"I have reason to presume that in a short time, say three or four weeks, the work may be finished, and the treaty ready to be submitted to the President. This being a matter of so much importance in itself, so essential when finished to have it despatched as soon as possible by the safest and swiftest conveyance, and so improbable that at the time contemplated, I shall be able to find any such conveyance but by a publick ship, that I have concluded to detain the *Hornet*.

"Having ventured on this resolution, I am now anxious to impart it to you with the copies above mentioned, as soon as possible, and for this purpose I send the *Hornet* with this despatch to England, desiring Mr. Russell to forward it with such expedition and safety as may be in his power, as none can be had at present from this country.

"The affair of the *Acostus*, now terminated, will be at least one more proof that the obnoxious decrees are in good faith annulled.

"The ship *Acostus*, captain Cottle, loaded with tobacco, and bound from Norfolk to Tonningen, was boarded by an English frigate and afterwards taken by a French privateer, and brought into Fecamp, for the fact of having been thus boarded. As soon as the emperor was informed of this by my letter of the 2d December to the duke of Basano, he ordered the ship and cargo to be restored to her owner; all which I had the honour to state to you, and I now state it to Mr. Russell."

No. 7.

Extract of a Letter from Mr. Barlow to the Secretary of State. Paris, February 8, 1812.

"HAvING an opportunity to send to London, which cannot be entirely relied upon for safety, I shall do little more than send you a copy of my last despatch.

"Since its date I have had several conversations with the minister of foreign relations relative to the progress of the treaty. He is at work upon it, and probably in good earnest; but the discussions with Russia and the other affairs of this continent, give him and the emperor so much occupation, that I cannot count upon their getting on very fast with ours.

"But he endeavours to assure me that it shall not suffer much delay, and that most of the essential points that I insist upon will be agreed to. These declarations, however, are not sufficiently precise to be relied upon.

"The *Hornet* sailed from Cherbourg the 1st of February, and may be expected back in a very few days."

No. 8.

Extract of a Letter from Mr. Barlow to the Secretary of State. March 3, 1812.

"THE *Hornet* returned to Cherbourg the second time, about the 15th of February, where she yet remains, and where I am under the painful necessity of detaining her still longer, or of sending her home without the treaty. The alternative is disagreeable; but I do not hesitate, under all circumstances, to detain her. It is in the hope that we shall bring the affair to a conclusion in time for her to arrive with the treaty before Congress will adjourn.

"Be assured that I spare no pains and omit no argument in urging forward this business.

"Mr. Russell has written me again for additional proofs of the removal of the decrees, I have the honour to enclose to you a copy of my answer to him of yesterday, which I shall send by the same ship that takes this despatch, (the *Neptune*, for New York.) The captain, Hopkins, has promised to put the messenger, Mr. Frean, of South Carolina, on shore in England, without expense to the government."

[ENCLOSED IN NO. 8.]

Mr. Barlow to Mr. Russell. March 2, 1812.

It seems, from a variety of documents that I have seen, and among others the decision of sir William Scott, in the
VOL. VIII. 45

case of the ship *Fox*, that the British government requires more proof of the effectual revocation by the French government of the Berlin and Milan decrees. Though it is not easy to perceive what purpose such additional proof is to answer, either for obtaining justice or for showing why it is refused, yet I herewith send you a few cases in addition to what have already been furnished.

Among these I believe you will find such as will touch every point that was contemplated in those decrees, to prove them all to have been removed. If not, and still farther proof after this should be deemed necessary, I can doubtless furnish it, for the subject is not exhausted, though your patience may be.

1. The schooner *Fly*, Adams, of and from New York, loaded with cotton, sugar and coffee, bound to St. Petersburg, taken by an English cruiser, and carried into Cowes, thence released, came into Havre, declared the facts as above, entered, sold her cargo, reloaded with fresh goods, and departed without molestation.

2. The brig *Ann Maria*, of and from New York, D. Campbell, master, bound to a port in France, loaded with potash, cotton, staves, put into Falmouth, then came to Morlaix, entered, sold, bought, reloaded and departed as above.

3. The ship *Neptune*, Hopkins, bound from London to Charleston, in ballast, taken, brought into Deipzic, restored by a decree of the emperor, and departed again in ballast.

4. Ship *Marquis de Somervellas*, with indigo, fish, cotton, bound to Civitta Vecchia, boarded by a British frigate, arrived at her port, declared the fact, entered, sold, and is now reloading for the United States.

5. Ship *Phœbe*, from Boston to Civitta Vecchia, colonial produce, boarded as above, arrived, entered, sold, and is now reloading for departure.

6. Ship *Recovery*, of Boston, with pepper, boarded, arrived, entered, and treated as above at the same place; now selling her cargo.

7. Brig *Star*, bound to Naples with colonial produce, taken and carried into Toulon, for having touched at Gibraltar, under pretence of a violation of the decrees, and restored by the emperor, on the express ground that

the decrees no longer existed, as applicable to the United States.

It would be wrong to allege that any of these vessels were protected by special licenses. In the first place, only three of the seven had licenses : those were the *Fly*, the *Phœbus* and the *Recovery*. Secondly, it is well known that licenses are not and never were given as protections against the effect of those decrees. The object of the licenses given to vessels of the United States is distinctly defined to be merely to guard against false papers, and to prove the regularity of the voyage. They are used only for colonial produce, and not at all for the produce of the United States, and we see in every instance that a vessel loaded wholly with produce of the United States, or in ballast, is respected by the government here. At least I know it has been so, in every instance, since my arrival in September last ; and there have been, I doubt not, 30 or 40 such vessels in France within that period. But a vessel loaded with colonial produce, and sailing without a license, would be certainly confiscated, whether she had violated the supposed decrees or not. Indeed the regulation about licenses is not a maritime regulation, and it has nothing to do with neutral rights. It is, strictly speaking, *a relaxation of the French navigation act*, in favour of such particular persons as obtain them, to enable such persons to bring goods of an origin foreign to the United States into France.

It is the same as if a vessel of the United States should, by a special relaxation of the English navigation act, obtain a license to bring Brazil sugars or French wines into England. Such a license would surely not be considered as a breach on the part of England of our neutral rights ; neither would it be a breach of such rights to confiscate our vessels carrying such articles into England without a license. The violation of the navigation law, either of France or England, is not a neutral right, and therefore the punishment of such violation is not a breach of neutral right.

I have taken the liberty to be thus particular on this head, because in several instances, during the discussion with the ministers of the British government, I have seen a disposition in them to confound with the French maritime decrees, not only this affair of special licenses, but several

regulations merely fiscal and municipal, bearing no relation to neutral rights or to the decrees in question.

I will terminate this statement by repeating the solemn declaration that I made to you in my letter of the 30th January, (and there is no impropriety in the repetition, since a greater length of time has given a wider scope to the declaration) that since my arrival in September last, there has not been a single instance of the application of the Berlin and Milan decrees to an American vessel or cargo, and that I have not heard of their having been so applied since the 1st of November, 1810, though many instances have occurred within that period, in which they must have been so applied, had they been in vigour.

It is difficult to conceive, probably impossible to procure, and certainly insulting to require a mass of evidence more positive than this, or more conclusive to every unprejudiced mind.

J. BARLOW.

James Monroe, Esq. &c.

No. 9.

Extract of a Letter from Mr. Barlow to the Secretary of State. Paris, March 18, 1812.

"I HAVE scarcely been able to get an interview with the duke of Bassano, for the last fifteen days, though he has appointed several. He has disappointed me in most of them, and I am sure with reluctance. Last evening I obtained a short audience, in which he declared that his great work of this continent was now finished, and he would be able after to-morrow, to devote himself very much to the treaty with the United States, till it should be completed. And I left him rather with a hope than the full expectation, that he will have it in his power to keep his promise."

No. 9.

Extract of a Letter from Mr. Barlow to the Secretary of State. Paris, March 16, 1812.

"SINCE I had the honour of writing to you yesterday, the Moniteur has come out with the senatus consultum of which I spoke. This I now enclose. This despatch goes by a safe hand to Bordeaux, there to be confided to some passenger, to go by one of our fast sailing schooners. You will notice that the minister, in his report, says nothing particular of the United States, and nothing more precise than heretofore of the revocation of the decrees.

"This furnishes an additional motive for using all my efforts to get the treaty through; carrying with it an unequivocal stipulation that shall lay that question to rest. Its importance is surely sufficient to warrant my detaining the Hornet.

"The emperor did not like the bill we have seen before Congress, for admitting English goods contracted for before the non-importation law went into operation.

"I was questioned by the duke of Bassano on the bill, with a good deal of point when it first appeared; and I gave such clear and decided explanations, as I thought at the time would remove all uneasiness. But I have since heard that the emperor is not well satisfied. If Congress had applied its relieving hand to individual cases only, and on personal petitions, it would have excited no suspicion.

"In consequence of my repeated remonstrances in cases of condemnation of American cargoes, on frivolous, or false pretences, I think the career is somewhat arrested, and they now show a disposition to revise the judgments. The Betsey, the Ploughboy, and the Ant, are ordered for revision. The Belisarius is in progress, and is likely to be liberated, as you will learn by the correspondence I now have the honour to enclose, respecting that case."

[Note. Mr. Barlow's letters of the 15th and 16th of March are both marked No. 9, by him.]

[ENCLOSED IN NO. 9, OF MARCH 16.]

*Copy of a Letter from Mr. Barlow to the Duke of Bassano.
February 6, 1812.*

MY LORD,—I understand that the brig *Belisarius*, of New York, captain Lockwood, and her cargo, is about to be confiscated, after a report made to his majesty, because this vessel and her cargo are *liable to the decree of Milan, of the 17th December, 1807.*

As I know positively that this American vessel left *New York the 17th of June, 1811*, seven months after the revocation of the decrees of Milan and Berlin, laden with *permitted articles, the produce of the soil of the United States*, I am unable to account for this decision, without attributing it to *an error of date* committed in the report, in which it is possible that the year 1810, has been taken for the year 1811.

I take the liberty, therefore, to submit this remark to your excellency, well persuaded, if there has been an *error* in the report, the justice of his majesty will order a revision of the affair.

I pray your excellency, &c. &c.

JOEL BARLOW.

His Excellency the Duke of Bassano, &c. &c.

*Copy of a Letter from Mr. Barlow to the Duke of Bassano.
Paris, March 12, 1812.*

THE undersigned, minister plenipotentiary of the United States, has the honour to transmit, here enclosed, to his excellency the duke of Bassano, minister of foreign relations, copies of the protests of Thomas Holden, master of the American brig *Dolly*, of New York, and Stephen Bayard, master of the American ship *Telegraph*, of New York, by which his excellency will learn that these vessels have been met with at sea, by his imperial and royal majesty's ships the *Medusa*, captain Rael; and the *Nymph*, captain Plasson, who, after having plundered them of a part of their cargoes, destroyed the remainder by burning the ships.

It is a painful task to the undersigned, to be obliged so frequently to call the attention of his excellency to such lawless depredations. It appears to him, that in the whole catalogue of outrages on the part of the cruisers of the belligerents, of which the United States have such great and just reason to complain, there are none more vexatious and reprehensible than this.

Upon what ground can such spoliations be justified? Will it be alleged that the destruction of these vessels was necessary in order to prevent their carrying information to the enemy, and thereby endanger the safety of these frigates upon a trackless ocean? This would be a poor defence. After boarding these peaceful traders, they might easily have led their course south, when they intended to go north. They could even have maintained their assumed character of British ships, under which it seems they began the commission of these flagrant acts, and thus have prevented all information of their cruising in those latitudes.

But it appears, that plunder, and not safety was the object for which they have thus disgraced the imperial flag. For his excellency will probably have learnt from Brest, where the frigates entered, that the twenty boxes of spices and other articles taken from the *Telegraph*, were smuggled on shore, and it is said were sold for the benefit of the equipage of the *Medusa*.

Thus is the property of citizens of the United States, seized, condemned and sold by officers in the imperial navy, who become at once captors, judges and venders of the property of unoffending neutrals. Such disgraceful violations of every principle on which nations consent to live in peace, ought never to go unpunished, and surely in this case they will not.

The undersigned, therefore, most earnestly calls on his excellency, the minister of foreign relations, as the official guardian of publick right, to lay a statement of this outrage before his majesty, in such a point of view as shall produce a speedy compensation to the captains Holden and Bayard, and the owners of the ships and cargoes, for the losses they have sustained; and his majesty will doubtless take measures to avenge the dignity and signalize the justice of his government by punishing such a crime in a manner to prevent its repetition.

The valuation of the Dolly and her cargo, and of the Telegraph and her cargo, is herewith enclosed: the delay in obtaining these valuations has retarded for some weeks the presentation of this letter; and the undersigned cannot but indulge the hope that his excellency will now give as early attention to the whole of the case, as its importance manifestly demands.

The undersigned begs his excellency, &c.

J. BARLOW.

His Excellency the Duke of Bassano, &c.

[ENCLOSED IN NO. 9, OF MARCH 16.]

Translation of a Letter from the Duke of Bassano to Mr. Barlow. Paris, March 15, 1812.

SIR,—I have had the honour of informing you that the case of the ship *Belisarius* was terminated, and that I had advised the minister of commerce of the intentions of his majesty.

It having been ascertained, on the first examination of this affair, that the ownership (*Le Pour Compte*) of a great part of the cargo was not proven, and this irregularity, as well as the insufficiency of the papers on board, being a formal contravention of the rules of navigation, generally adopted and established at all times, the decision to which this part of the cargo might be liable, had, at first, extended beyond it. But on a circumstantial report which I had the honour of presenting to the emperor, his majesty, who likes to carry into the examination of all the affairs on which you address me, friendly dispositions, has ordered that the different questions which were submitted to him should be separated, to the end that a decision may be had, in the first place, on those which present themselves under the most favourable aspect.

In consequence, sir, the vessel and the part of the cargo of which the ownership (*Le Pour Compte*) is proven, will be given up to the proprietors; and as to the other articles of the cargo which are not accompanied with the same kind of proof, the necessary time and facilities will

be given to establish the fact of their being American property conformably to the ancient rules.

Accept, sir, the assurance of my high consideration.

THE DUKE OF BASSANO.

No. 10.

Extracts of a Letter from Mr. Barlow to the Secretary of State. Paris, April 22, 1812.

"I AM obliged at last to dismiss the Hornet without the expected treaty, which I should have regretted more than I do if your despatches which I have had the honour to receive by the Wasp, had not somewhat abated my zeal in that work.

"It really appeared to me that the advantages of such a treaty as I have sketched would be very great, and especially if it could be concluded soon."

"It is true that our claims of indemnity for past spoliations should be heard, examined and satisfied, which operation should precede the new treaty, or go hand in hand with it. This is dull work, hard to begin, and difficult to pursue. I urged it a long time without the effect even of an oral answer. But lately they have consented to give it a discussion, and the minister assures me that something shall be done to silence the complaints, and on principles that, he says, ought to be satisfactory.

"I shall not venture to detain the Wasp more than two or three weeks; and I hope by that time to have something decisive to forward by her.

"From some expressions in your letters I am in hopes of receiving soon some more precise instructions on these subjects.

"My communication with England, by Morlaix, is almost entirely cut off. It is not so easy to send to London, unless by one of our own publick ships, as it is to the United States. I now send your despatches and my own to Mr. Russell, by a messenger in the Hornet, whom I shall desire captain Lawrence to put on shore or into a pilot boat on the coast of England.

"This messenger, with Mr. Biddle, will leave Paris this night for Cherbourg, where the Hornet is ready to receive them."

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JUNE 1, 1812.

I COMMUNICATE to Congress certain documents, being a continuation of those heretofore laid before them, on the subject of our affairs with Great Britain.

Without going back beyond the renewal, in 1803, of the war in which Great Britain is engaged, and omitting unrepaid wrongs of inferior magnitude, the conduct of her government presents a series of acts, hostile to the United States as an independent and neutral nation.

British cruisers have been in the continued practice of violating the American flag on the great highway of nations, and of seizing and carrying off persons sailing under it; not in the exercise of a belligerent right, founded on the law of nations against an enemy, but of a municipal prerogative over British subjects. British jurisdiction is thus extended to neutral vessels, in a situation where no laws can operate but the law of nations, and the laws of the country to which the vessels belong; and a self-redress is assumed, which, if British subjects were wrongfully detained and alone concerned, is that substitution of force, for a resort to the responsible sovereign, which falls within the definition of war. Could the seizure of British subjects, in such cases, be regarded as within the exercise of a belligerent right, the acknowledged laws of war, which forbid an article of captured property to be adjudged, without a regular investigation before a competent tribunal, would imperiously demand the fairest trial, where the sacred rights of persons were at issue. In place of such a trial, these rights are subjected to the will of every petty commander.

The practice, hence, is so far from affecting British subjects alone, that, under the pretext of searching for these, thousands of American citizens, under the safeguard of public law, and of their national flag, have been torn from their country, and from every thing dear to them; have been dragged on board ships of war of a foreign nation, and exposed, under the severities of their discipline, to be exiled to the most distant and deadly climes, to risk

their lives in the battles of their oppressors, and to be the melancholy instruments of taking away those of their own brethren.

Against this crying enormity, which Great Britain would be so prompt to avenge if committed against herself, the United States have in vain exhausted remonstrances and expostulations. And that no proof might be wanting of their conciliatory dispositions, and no pretext left for a continuance of the practice, the British government was formally assured of the readiness of the United States, to enter into arrangements, such as could not be rejected, if the recovery of British subjects were the real and the sole object. The communication passed without effect.

British cruisers have been in the practice also of violating the rights and the peace of our coasts. They hover over and harass our entering and departing commerce. To the most insulting pretensions, they have added the most lawless proceedings in our very harbours; and have wantonly spilt American blood within the sanctuary of our territorial jurisdiction. The principles and rules enforced by that nation, when a neutral nation, against armed vessels of belligerents hovering near her coasts, and disturbing her commerce, are well known. When called on, nevertheless, by the United States, to punish the greater offences committed by her own vessels, her government has bestowed on their commanders additional marks of honour and confidence.

Under pretended blockades, without the presence of an adequate force, and sometimes without the practicability of applying one, our commerce has been plundered in every sea; the great staples of our country have been cut off from their legitimate markets; and a destructive blow aimed at our agricultural and maritime interests. In aggravation of these predatory measures, they have been considered as in force from the dates of their notification; a retrospective effect being thus added, as has been done in other important cases, to the unlawfulness of the course pursued. And to render the outrage the more signal, these mock blockades have been reiterated and enforced in the face of official communications from the British government, declaring, as the true definition of a legal blockade, "that particular ports must be actually invested.

and previous warning given to vessels bound to them, not to enter."

Not content with these occasional expedients for laying waste our neutral trade, the cabinet of Great Britain resorted, at length, to the sweeping system of blockades, under the name of orders in council; which has been moulded and managed, as might best suit its political views, its commercial jealousies, or the avidity of British cruisers.

To our remonstrances against the complicated and transcendent injustice of this innovation, the first reply was, that the orders were reluctantly adopted by Great Britain, as a necessary retaliation on decrees of her enemy, proclaiming a general blockade of the British isles, at a time when the naval force of that enemy dared not to issue from his own ports. She was reminded, without effect, that her own prior blockades, unsupported by an adequate naval force actually applied and continued, were a bar to this plea: that executed edicts against millions of our property could not be retaliation on edicts, confessedly impossible to be executed: that retaliation, to be just, should fall on the party setting the guilty example, not on an innocent party, which was not even chargeable with an acquiescence in it.

When deprived of this flimsy veil for a prohibition of our trade with her enemy, by the repeal of his prohibition of our trade with Great Britain, her cabinet, instead of a corresponding repeal, or a practical discontinuance of its orders, formally avowed a determination to persist in them against the United States, until the markets of her enemy should be laid open to British products; thus asserting an obligation on a neutral power to require one belligerent to encourage, by its internal regulations, the trade of another belligerent; contradicting her own practice towards all nations, in peace as well as in war; and betraying the insincerity of those professions which inculcated a belief, that having resorted to her orders with regret, she was anxious to find an occasion for putting an end to them.

Abandoning, still more, all respect for the neutral rights of the United States, and for its own consistency, the British government now demands, as pre-requisites to a repeal of its orders as they relate to the United States, that a formality should be observed in the repeal of the French

decrees, no wise necessary to their termination, nor exemplified by British usage ; and that the French repeal, besides including that portion of the decrees which operate within a territorial jurisdiction, as well as that which operates on the high seas against the commerce of the United States, should not be a single and special repeal in relation to the United States, but should be extended to whatever other neutral nations, unconnected with them, may be affected by those decrees. And, as an additional insult, they are called on for a formal disavowal of conditions and pretensions advanced by the French government, for which the United States are so far from having made themselves responsible, that, in official explanations, which have been published to the world, and in a correspondence of the American minister at London with the British minister for foreign affairs, such a responsibility was explicitly and emphatically disclaimed.

It has become, indeed, sufficiently certain, that the commerce of the United States is to be sacrificed, not as interfering with the belligerent rights of Great Britain ; not as supplying the wants of her enemies, which she herself supplies ; but as interfering with the monopoly which she covets for her own commerce and navigation. She carries on a war against the lawful commerce of a friend, that she may the better carry on a commerce with an enemy ; a commerce polluted by the forgeries and perjuries, which are for the most part the only passports by which it can succeed.

Anxious to make every experiment, short of the last resort of injured nations, the United States have withheld from Great Britain, under successive modifications, the benefits of a free intercourse with their market, the loss of which could not but outweigh the profits accruing from her restrictions of our commerce with other nations. And to entitle these experiments to the more favourable consideration, they were so framed as to enable her to place her adversary under the exclusive operation of them. To these appeals her government has been equally inflexible, as if willing to make sacrifices of every sort, rather than to yield to the claims of justice, or renounce the errors of a false pride. Nay, so far were the attempts carried, to overcome the attachment of the British cabinet to its unjust edicts, that it received every encouragement, with-

in the competency of the executive branch of our government, to expect that a repeal of them would be followed by a war between the United States and France, unless the French edicts should also be repealed. Even this communication, although silencing for ever the plea of a disposition in the United States to acquiesce in those edicts, originally the sole plea for them, received no attention.

If no other proof existed of a predetermination of the British government against a repeal of its orders, it might be found in the correspondence of the minister plenipotentiary of the United States at London and the British secretary for foreign affairs, in 1810, on the question whether the blockade of May, 1806, was considered as in force, or as not in force. It had been ascertained that the French government, which urged this blockade as the ground of its Berlin decree, was willing, in the event of its removal, to repeal that decree; which being followed by alternate repeals of the other offensive edicts, might abolish the whole system on both sides. This inviting opportunity for accomplishing an object so important to the United States, and professed so often to be the desire of both the belligerents, was made known to the British government. As that government admits that an actual application of an adequate force, is necessary to the existence of a legal blockade, and it was notorious, that if such a force had ever been applied, its long discontinuance had annulled the blockade in question, there could be no sufficient objection on the part of Great Britain to a formal revocation of it; and no imaginable objection to a declaration of the fact, that the blockade did not exist. The declaration would have been consistent with her avowed principles of blockade; and would have enabled the United States to demand from France the pledged repeal of her decrees; either with success, in which case the way would have been opened for a general repeal of the belligerent edicts; or without success, in which case the United States would have been justified in turning their measures exclusively against France. The British government would, however, neither rescind the blockade, nor declare its non-existence; nor permit its non-existence to be inferred and affirmed by the American plenipotentiary. On the contrary, by representing the blockade to be comprehended in the orders in council, the United

States were compelled so to regard it, in their subsequent proceedings.

There was a period when a favourable change in the policy of the British cabinet, was justly considered as established. The minister plenipotentiary of his British majesty here, proposed an adjustment of the differences more immediately endangering the harmony of the two countries. The proposition was accepted with the promptitude and cordiality, corresponding with the invariable professions of this government. A foundation appeared to be laid for a sincere and lasting reconciliation. The prospect, however quickly vanished. The whole proceeding was disavowed by the British government without any explanations, which could, at that time, repress the belief, that the disavowal proceeded from a spirit of hostility to the commercial rights and prosperity of the United States. And it has since come into proof that at the very moment, when the publick minister was holding the language of friendship, and inspiring confidence in the sincerity of the negotiation with which he was charged, a secret agent of his government was employed in intrigues, having for their object, a subversion of our government, and a dismemberment of our happy Union.

In reviewing the conduct of Great Britain towards the United States, our attention is necessarily drawn to the warfare, just renewed by the savages, on one of our extensive frontiers ; a warfare, which is known to spare neither age nor sex, and to be distinguished by features peculiarly shocking to humanity. It is difficult to account for the activity and combinations which have for some time been developing themselves among tribes in constant intercourse with British traders and garrisons, without connecting their hostility with that influence, and without recollecting the authenticated examples of such interpositions, heretofore furnished by the officers and agents of that government.

Such is the spectacle of injuries and indignities, which have been heaped on our country ; and such the crisis which its unexampled forbearance and conciliatory efforts, have not been able to avert. It might, at least have been expected, that an enlightened nation, if less urged by moral obligations, or invited by friendly dispositions on the part of the United States, would have found, in its true

interest alone, a sufficient motive to respect their rights and their tranquillity on the high seas ; that an enlarged policy would have favoured that free and general circulation of commerce, in which the British nation is at all times interested, and which, in times of war, is the best alleviation of its calamities to herself, as well as to other belligerents ; and more especially that the British cabinet would not, for the sake of a precarious and surreptitious intercourse with hostile markets, have persevered in a course of measures, which necessarily put at hazard the invaluable market of a great and growing country, disposed to cultivate the mutual advantages of an active commerce.

Other councils have prevailed. Our moderation and conciliation have had no other effect than to encourage perseverance, and to enlarge pretensions. We behold our seafaring citizens still the daily victims of lawless violence committed on the great common and highway of nations, even within sight of the country which owes them protection. We behold our vessels, freighted with the products of our soil and industry, or returning with the honest proceeds of them, wrested from their lawful destinations, confiscated by prize courts, no longer the organs of public law, but the instruments of arbitrary edicts ; and their unfortunate crews dispersed and lost, or forced or inveigled, in British ports, into British fleets ; whilst arguments are employed, in support of these aggressions, which have no foundation but in a principle, equally supporting a claim to regulate our external commerce, in all cases whatsoever.

We behold, in fine, on the side of Great Britain, a state of war against the United States ; and on the side of the United States, a state of peace towards Great Britain.

Whether the United States shall continue passive under these progressive usurpations, and these accumulating wrongs ; or, opposing force to force in defence of their national rights, shall commit a just cause into the hands of the Almighty Disposer of events ; avoiding all connections which might entangle it in the contests or views of other powers, and preserving a constant readiness to concur in an honourable re-establishment of peace and friendship, is a solemn question, which the constitution wisely confides to the legislative department of the government.

In recommending it to their early deliberations, I am happy in the assurance, that the decision will be worthy the enlightened and patriotick councils of a virtuous, a free and a powerful nation.

Having presented this view of the relations of the United States with Great Britain, and of the solemn alternative growing out of them, I proceed to remark that the communications last made to Congress on the subject of our relations with France, will have shown, that since the revocation of her decrees, as they violated the neutral rights of the United States, her government has authorized illegal captures, by its privateers and publick ships; and that other outrages have been practised on our vessels and our citizens. It will have been seen also, that no indemnity had been provided, or satisfactorily pledged, for the extensive spoliations committed under the violent and retrospective orders of the French government, against the property of our citizens seized within the jurisdiction of France. I abstain at this time from recommending to the consideration of Congress, definitive measures with respect to that nation, in the expectation, that the result of unclosed discussions between our minister plenipotentiary at Paris and the French government, will speedily enable Congress to decide, with greater advantage, on the course due to the rights, the interests, and the honour of our country.

JAMES MADISON.

CORRESPONDENCE BETWEEN MR. FOSTER AND MR. MONROE.

Mr. Foster to Mr. Monroe. Washington, April 15, 1812.

SIR,—I have the honour to acquaint you, that in addition to those seamen belonging to his majesty's hired armed ketch Gleaner, mentioned in my representation to you of the 30th ultimo, who lately received protection in the violation of their engagements, or were seduced from the service of his majesty by citizens of the United States, I have since been informed by lieutenant Green, her com-

mander, of another subject of his majesty, who was also induced to leave his majesty's service in consequence of encouragement to that effect from the inhabitants of Annapolis.

Such instances, sir, of improper attempts made on the part of citizens of the United States to deprive his majesty's ships, even when employed in the diplomatic intercourse between the two countries, of their seamen, will serve, in conjunction with many others in my power to quote, and perhaps in your remembrance, to show, that if the United States have reason at times to complain of irregularities in his majesty's officers in undesignedly taking their seamen, mistaking them for their own, we have occasionally also reason to make complaint of our seamen engaged on national service, and known as British subjects, being seduced from their allegiance by citizens of the United States, with circumstances of aggravation and insult highly irritating.

Although, sir, it has unfortunately not as yet been found practicable by our governments to agree to such arrangements as might preclude the possibility of events taking place so calculated to produce vexation on either side; I cannot however but hope, that the government of the United States may find some means to prevent a recurrence of similar irregularities on the part of their citizens; and I assure you, sir, that as hitherto, so at all times whenever you claim any persons on board any of his majesty's ships, as native American citizens, no exertion shall be wanting on my part to procure their discharge; and I will add, that it would afford me very high satisfaction to be now furnished by you with a list of all those whom you can claim as such, in order that I might use every effort in my power to obtain their immediate release.

You need not, I am sure, sir, be reminded by me of the prompt attention which has been invariably given by his majesty's commanding officer on the Halifax station to the reclamations in similar cases, which I have transmitted since my arrival in the United States to him in your name, nor of the readiness with which he has given directions, when practicable, for their being instantaneously discharged.

I have the honour, &c.

AUG. J. FOSTER.

Mr. Monroe to Mr. Foster. Department of State, May 30, 1812.

SIR,—Having had the honour to confer with you soon after the date of your letter of April 15th, relative to a deserter from his Britannick majesty's ship of war the *Gleaner*, it is unnecessary to repeat here the remarks which I then made on that subject. I shall only observe, that none of the men who deserted from that vessel had any encouragement to do it from the constituted authorities of the United States, or of the state of Maryland. If they received such encouragement from any of our citizens, it is a cause of regret; but it is an act not cognizable by our laws, any more than it is presumed to be by those of Great Britain.

It is proper to state that a similar desertion took place last year from an American frigate in an English port, in which no redress was afforded. It was the more remarkable, as the deserter took refuge on board a British ship of war, the commander of which refused to surrender him on being requested to do so.

Your proffered exertions to procure the discharge of native American citizens from on board British ships of war, of which you desire a list, has not escaped attention.

It is impossible for the United States to discriminate between their native and naturalized citizens, nor ought your government to expect it, as it makes no such discrimination itself. There is in this office a list of several thousand American seamen who have been impressed into the British service, for whose release applications have, from time to time, been already made. Of this list a copy shall be afforded you, to take advantage of any good offices you may be able to render.

I have, &c.

JAMES MONROE.

CORRESPONDENCE BETWEEN MR. MONROE AND MR. RUSSELL.

Mr. Monroe to Mr. Russell. Department of State, July 27, 1811.

SIR,—This letter will be delivered to you by Mr. Barlow, who is appointed to represent the United States at Paris, as their minister plenipotentiary. You will deliver to him the papers in your possession, and give him all the information in your power, relative to our affairs with the French government.

The President has instructed me to communicate to you, his approbation of your conduct in the discharge of the duties which devolved on you as charge d'affaires at Paris, after the departure of general Armstrong, which I execute with pleasure. As an evidence of his confidence and favourable disposition, he has appointed you to the same trust in London, for which I enclose you a commission. It is hoped that it may suit your convenience to repair to that court, and to remain there till a minister shall be appointed, which will be done as soon as the Congress convenes. The frigate which takes Mr. Barlow to France will pass on to some port in Holland, to execute a particular instruction from the Secretary of the Treasury, relative to our debt in that country. She will then return to France, and take you to such English port as may be most convenient to you.

Your services in France will have given you such knowledge of your duties at London, that I shall not go into detail in this communication respecting them. It is wished and expected that you and Mr. Barlow will communicate fully on the subject of your respective duties, and co-operate together in the measures which are deemed necessary to promote the just objects of the United States with the countries in which you will respectively represent them.

You will receive a copy of the notes of Mr. Foster on several important topics, and my answers to them, particularly on the British orders in council, the possession taken by the United States of certain parts of West Florida, and the late encounter between the United States

frigate the President and the British sloop of war the Little Belt. It is hoped that the British government will proceed to revoke its orders in council, and thus restore, in all respects, the friendly relation which would be so advantageous to both countries. The papers relative to West Florida show the ground on which that question rests. The affair of the Little Belt cannot excite much feeling, as it is presumed, in England: the chase was begun by the British captain, he fired the first shot and the first broadside; to which it may be added, that the occurrence took place near our coast, which is sometimes infested by vessels from the West Indies, without commissions, and even for piratical purposes. It seems to be a right inseparable from the sovereignty of the United States to ascertain the character and nation of the vessels which hang on their coast. An inquiry is ordered into commodore Rodgers' conduct, at his request, for the purpose of establishing all the facts appertaining to this occurrence.

You will be allowed an outfit for Paris, and half an outfit to take you to London.

Should you, by any circumstances be unable to proceed to London, which would be a cause of regret, you will be so good as to transmit, by a special messenger, the papers forwarded for you to Mr. Smith, who, in that event, will remain there.

You will receive enclosed a letter to Mr. Smith, to be delivered to him in case you go to London, as it is wished that your removal to London should not be imputed to a want of due respect for him.

I have the honour, &c. &c.

JAMES MONROE.

Jonathan Russell, Esq. &c. &c.

Extract of a Letter from the Secretary of State to Mr. Russell. Department of State, November 27, 1811.

"I HAD lately the honour to transmit to you a copy of the President's message to Congress at the commencement of the session, and of the documents which accompanied it, so far as they were then printed. In the papers now sent,

you will receive a complete copy of that highly interesting communication.

"You will see by these documents the ground which has been taken by the Executive, in consequence of the new ground taken by Great Britain. The orders in council are considered as war on our commerce, and to continue till the continental market is opened to British products, which may not be, pending the present war in Europe. The United States cannot allow Great Britain to regulate their trade, nor can they be content with a trade to Great Britain only, whose markets are already surcharged with their productions.

"The United States are, therefore, reduced to the dilemma, either of abandoning their commerce, or of resorting to other means more likely to obtain a respect for their rights. Between these alternatives, there can be little cause for hesitation.

"It will be highly satisfactory to learn that a change in the policy of Great Britain shall have taken place, and it is expected that you will avail yourself of every opportunity, and particularly of the return of this vessel, to communicate the most full and correct information on the subject.

"The *Hornet* will land a messenger in France who takes despatches to our minister in Paris, after which she will proceed to England and land there a messenger with despatches to you. It is desired that you will hurry her return to France with the greatest expedition possible, from whence she will hasten to the United States."

Extract of a Letter from Mr. Russell to the Secretary of State. London, November 22, 1811.

"I HAVE the honour to inform you that I reached London on the 12th of this month, and on the 15th waited on the marquis Wellesley, in pursuance to his appointment. His lordship said it was very uncertain when he should be able to present me to the prince regent, as his royal highness had the day before met with an accident at Oatlands, which might prevent his return to town for some time.

" Our conversation was of a very general character, and did not embrace with precision any of the questions in agitation between the two countries. His lordship once observed, that he hoped in the course of five or six weeks we might have some amicable discussion with each other.

" Until I am otherwise instructed, I shall confine myself here to the exercise of the ordinary duties of the legation. After the proof which has been already produced of the revocation of the French decrees, it would probably do no good for me to make a statement on that subject, especially as I have nothing new to offer. Enough has already been said to convince those who were not predisposed to resist conviction.

" The Constitution left Portsmouth on the 21st instant for Cherbourg."

Extract of a Letter from Mr. Russell to the Secretary of State. London, December 23, 1811.

" SINCE I wrote you on the 22d ultimo, nothing new in relation to the United States has occurred here.

" Every thing remains in doubt with regard to a change of ministers, and much more so with regard to a change of measures.

" I have not heard from Mr. Barlow since I left France, and do not know if the Constitution has yet left that country.

" The newspapers which I transmit you herewith, contain the late occurrences, and to those I beg leave to refer you."

Extract of a Letter from Mr. Russell, Charge d'Affaires of the United States at London, to the Secretary of State. London, January 10, 1812.

" MR. TAYLOR, the messenger by the United States' ship Hornet, arrived in town on the third of this month, and delivered your despatches. I regret that I have nothing of a satisfactory nature to communicate to you in return relative to a change of system here. I have detained Mr.

Taylor a few days, as the opening of parliament and the early debates might indicate the spirit and develop the views of the ministry with regard to us.

"I have announced to the marquis Wellesley that the messenger will leave London on the 14th instant, and while I offered to take charge of any despatches which his lordship might wish to transmit by him, I availed myself of the occasion to state the high satisfaction it would afford me to be able to communicate to the American government by the same opportunity, the repeal, or such modification of the orders in council violating the rights of the United States, as would remove the great obstacle to free intercourse and perfect harmony between the two countries. I do not however flatter myself that this suggestion will produce any effect."

*Extract of a Letter from Mr. Russell to Mr. Monroe.
London, January 14, 1812.*

"SINCE I had the honour to address you *via* Liverpool, on the 10th of this month, I have received no communication from this government.

"The expectation of a change of ministry which was confidently entertained a few weeks since, appears to have vanished, and a hope of the extinguishment of the orders in council is very much diminished."

Extract of a Letter from Mr. Russell to the Secretary of State. London, January 14, 1812.

"I HAVE the honour to acknowledge the receipt of your two letters of the 27th of November last.

"It would have afforded me the highest satisfaction to have been able to communicate to you by the return of the *Hornet*, the revocation of the orders in council. Hitherto, however, there has been exhibited here no disposition to repeal them."

*Copy of a Letter from Mr. Russell to the Secretary of State.
London, January 14, 1812.*

SIR,—I lament that it is not in my power to announce to you by the return of Mr. Tayloe, the adoption of a system here towards the United States, more just and reasonable than that of which we now complain. No intimation has been given to me of an intention to abandon the offending orders in council. I have not hitherto made any representation in regard to those orders, and if they are to be persisted in, as Mr. Foster declares, not only until the Berlin and Milan decrees be *entirely* abrogated, but until we compel the French government to admit us in France with the manufactures and produce of Great Britain and her colonies, it must be useless to say any thing upon the subject. The revolting extravagance of these pretensions is too manifest to be the subject of argument, and the very attempt to reason them down would admit that they are not too absurd for refutation.

Should Mr. Barlow furnish me with any new evidence of the discontinuance of the French edicts, so far as they were in derogation of our rights, I shall present it to this government, and *once more* (however unnecessary it may appear) afford it an opportunity of revoking its orders, which can no longer be pretended to rest on our acquiescence in decrees of its enemy, from the unrighteous operation of which we are specially exempted.

I have the honour to be, &c.

JONA. RUSSELL.

James Monroe, Esq. &c. &c.

Mr. Russell to Mr. Monroe. London, Jan. 22, 1812.

SIR,—Yesterday I understood the case of the Female, one of the vessels captured under the orders in council, came to trial before sir William Scott. He rejected a motion for time to produce evidence of the revocation of the Berlin and Milan decrees *in relation to the United States*, and suggested that there would be a question of law, if such revocation, when shown, would be considered by the British government as sufficient to require the

repeal of the orders in council. At any rate, that he was bound to consider these orders to be in force until their repeal should be notified to him by this government. The Female was condemned.

I have the honour to be, &c.

JONA. RUSSELL.

Hon. James Monroe, &c. &c.

Extract of a Letter from Mr. Russell to the Secretary of State. London, Jan. 25, 1812.

"SINCE I had the honour to address you on the 14th instant by the Hornet, I have received no communication either from Washington or Paris.

"The Hornet did not leave Cowes until the 18th, owing, I presume, to the indisposition of the captain, whom I understand to have been very ill. I dismissed Mr. Tayloe here on the 14th."

Extract of a Letter from Mr. Russell to Mr. Monroe. London, Feb. 3, 1812.

"SINCE I had the honour to address you on the 25th ultimo, I have received your communication of the 20th December, through the good offices of Mr. Foster.

"While I lament the necessity, as I most sincerely do, of the course indicated by the proceedings of Congress, yet it is gratifying to learn that it will be pursued with vigour and unanimity. I am persuaded that this government has presumed much on our weakness and divisions, and that it continues to believe that we have not energy and union enough to make efficient war.

"I have this moment learnt that the Hornet has returned from Cherbourg to Cowes, and I understand by a letter from the consul there, that there is a Mr. Porter on board with despatches from Mr. Barlow for this legation, but he has not yet made his appearance here. I am obliged to close this letter without waiting for him, as I understand the next post may not arrive at Liverpool in season for the Orbit."

*Copy of a Letter from Mr. Russell to the Secretary of State.
London, Feb. 9, 1812.*

SIR,—I have the honour to transmit to you enclosed, a copy of a letter, dated 29th ult. from Mr. Barlow, and a copy of the note in which I yesterday communicated that letter to the marquis Wellesley.

Although the proof of the revocation of the French decrees, contained in the letter of Mr. Barlow, is, when taken by itself, of no very conclusive character, yet it ought, when connected with that previously exhibited to this government, to be admitted as satisfactorily establishing that revocation; and in this view I have thought it to be my duty to present it here.

I have the honour to be, &c.

JONA. RUSSELL.

[ENCLOSED IN MR. RUSSELL'S OF FEB. 9, 1812.]

Mr. Russell to the Marquis Wellesley. London, February 8, 1812.

MY LORD,—I have the honour herewith to hand to your lordship a copy of a letter addressed to me on the 29th of last month, by Mr. Barlow, the American minister at Paris.

I have felt some hesitation in communicating this letter to your lordship, lest my motive might be mistaken, and an obligation appear to be admitted on the part of the United States, to furnish more evidence of the revocation of the Berlin and Milan decrees than has already been furnished, or than has been necessary to their own conviction. I trust, however, that my conduct on this occasion will be ascribed alone to an earnest desire to prevent the evils which a continued diversity of opinion on this subject might unhappily produce.

The case of the *Acastus* necessarily implies that American vessels, captured by the cruisers of France, are adjudged by the French navigation laws only, and that the Berlin and Milan decrees make no part of these laws, the *Acastus* being acquitted notwithstanding the fact of her having been boarded by an English vessel of war.

To the declaration of Mr. Barlow, that since his residence at Paris there had been no instance of a vessel, under either the Berlin or Milan decrees, being detained or molested by the French government, I beg leave to add, that previous to his residence, and subsequent to the 1st of Nov. 1810, these decrees were not executed in violation of the neutral or national rights of the United States.

Whatever doubts might have originally been entertained of the efficient nature of the revocation of those decrees, on account of the form in which that measure was announced, those doubts ought surely now to yield to the uniform experience of fifteen months, during which period not a single fact has occurred to justify them.

I do not urge in confirmation of this revocation the admission of American vessels with cargoes arrived in the ports of France, after having touched in England, as stated by Mr. Barlow, and as accords with what occurred during my residence at Paris, because such admission is evidence only of the cessation of the municipal operation of the decrees in relation to the United States, of which it cannot be presumed that the British government requires an account.

I cannot forbear to persuade myself that the proof now added to the mass which was already before your lordship, will satisfactorily establish, in the judgment of his Britannick majesty's government, the revocation of the decrees in question, and lead to such a repeal of the orders in council, in regard to the United States, as will restore the friendly relations and commercial intercourse between the two countries.

I have the honour to be, &c.

JONA. RUSSELL.

[ENCLOSED IN MR. RUSSELL'S OF FEB. 9, 1812.]

Mr. Barlow to Mr. Russell. Paris, Jan. 29, 1812.

SIR,—The ship *Acastus*, captain Cottle, from Norfolk, bound to Tonningen, with tobacco, had been boarded by an English frigate, and was taken by a French privateer, and brought into Fecamp, for the fact of having been so boarded. This was in November last. On the 2d of

December, I stated the facts to the duke of Bassano; and in a few days after, the ship and cargo were ordered by the emperor to be restored to the owner, on condition that she had not violated the French navigation laws, which latter question was sent to the council of prizes to determine. The council determined that no such violation had taken place, and the ship and cargo were definitively restored to captain Cottle.

To the above fact I can add, that since my residence here several American vessels with cargoes have arrived and been admitted in the ports of France, after having touched in England, the fact being declared; and there is no instance within that period of a vessel in either of the cases of the Berlin and Milan decrees being detained or molested by the French government.

I have the honour to be, &c. &c.

J. BARLOW.

London, Feb. 21, 1812.

SIR,—I regret that in announcing to you the cessation of the restrictions on the regency here, I cannot at the same time apprise you of the adoption of a more just and enlightened policy in favour of the United States, than has hitherto prevailed.

The partial changes in the ministry will probably produce no change of its character, or lead to an abandonment of the existing system in relation to us.

I have the honour to be, &c.

JONA. RUSSELL.

Hon. James Monroe, &c.

Mr. Russell to Mr. Monroe. London, Feb. 22, 1812.

SIR,—I have the honour to hand you enclosed a copy of a letter to me from the earl of Liverpool, relating to a person by the name of Bowman, said to be a British subject, and forcibly detained on board the United States ship *Hornet*, together with copies of the deposition of Elizabeth Eleanor Bowman, which accompanied it, and of my reply. I have the honour, &c. &c.

JONA. RUSSELL.

Hon. James Monroe, &c. &c.

*The Earl of Liverpool to Mr. Russell. Foreign Office,
Feb. 20, 1812.*

SIR,—I have the honour to transmit to you the copy of an affidavit, sworn at Portsmouth, by Elizabeth Eleanor Bowman, stating herself to be the wife of William Bowman, one of his majesty's subjects, now detained against his will on board the United States' sloop Hornet, at present in Cowes road.

You cannot but be aware of the urgent necessity of putting the facts alleged in this document, into an immediate train of investigation; and I am to request that you will communicate without loss of time, with the commanding officer of the Hornet, in order that he may afford you all information in his power, and that the vessel may not put to sea before the result of the inquiry shall be ascertained, in a manner satisfactory to yourself and to this government.

You must likewise be aware, that this government has no power to prevent the issuing of a writ of habeas corpus by the friends of Bowman; and that, in that case it would be impossible to impede or delay its execution, and the consequent removal of this question out of the hands of the two governments, into those of the legal force and authorities of this country.

Anxious to prevent any such proceeding, the inconveniences of which, even if they did not involve the possibility of a forcible execution of the legal process, might yet be considerable.

I request your immediate attention to this communication; and I confidently hope that you will, by affording the means of an amicable investigation, supersede the necessity, in which the friends of Bowman may otherwise feel themselves, of taking the course to which I have before alluded.

I have the honour, &c. &c.

LIVERPOOL.

Jona. Russell, Esq. &c. &c.

Borough of Portsmouth, in the County of Southampton.

ELIZABETH ELEANOR BOWMAN, of Kingston, near Portsmouth, in the said county, maketh oath, that she was married to William Bowman, late of Portsmouth, shipwright, about five years ago: that he was employed in the dock yard there, which he quitted about three years ago, and sailed from hence in the *Edward Fort*, a transport, which was wrecked on the island of Cuba; that she was informed by her husband that he got from Cuba to New York, in an American ship, and about the 4th of June last, having got in liquor, he found himself in the American rendezvous there, and that he was compelled against his inclination to go on board the *Hornet*, an American sloop of war, being conducted on board her by a file of soldiers; that the *Hornet* having arrived lately at Cowes, she received a letter from her husband, requesting her to come on board to see him; that she accordingly went on board her, but was kept along side the sloop about half an hour, before the officer would admit her on board; that the permission to remain on board was for half an hour, but the officers would not afterwards permit her to quit the ship until the following Friday; that her husband told her that the officer threatened to punish him for having informed her where he was; and he also told her there were a great many English on board, several of whom would be glad to quit her; also that some men on board much wished her away from this country, but that she does not know the names of any of the parties; that the said William Bowman, who passed on board the *Hornet* by the name of William Elby, is now detained on board her against his will, and is very anxious to quit the American sloop *Hornet*, and to return to his native country.

The mark of

X

ELIZ. E. BOWMAN.

Sworn at Portsmouth, in the said county, the 25th day of January, 1812, before me; the same having been first read, and she having set her mark thereto in my presence.

E. H. AMAND,

One of His Majesty's Justices of the Peace
for the County of Southampton.

Mr. Russell to the Earl of Liverpool. London, February 21, 1812.

MY LORD,—I have the honour to inform your lordship that the United States' sloop Hornet left Cowes on the 13th of this month. The statement of this fact does away, I presume, the necessity of a more particular reply to your lordship's note of yesterday, concerning William Bowman, a seaman on board that ship.

I have the honour to be, &c. &c.

JONATHAN RUSSELL.

The Most Noble the Earl of Liverpool.

Extract of a Letter from Mr. Russell to the Secretary of State. London, March 4, 1812.

"MANY American vessels which had for a considerable time been wind bound in the ports of this country, were at length released on the 29th ult. by an eastwardly wind, and took their departure for the United States. By some of those vessels, particularly 'The Friends,' you will have received many letters from me; and you will have learnt, as nearly as it was in my power to inform you, what in your letter of the 18th January you desire to know, viz. 'the precise situation of our affairs with England.'

"Since my letters of the 19th and 22d ultimo, which I trust will have extinguished all expectation of any change here, the motion of lord Landsdown on the 28th February, and that of Mr. Brougham yesterday, have been severally debated in the respective houses of parliament. I attended the discussions on both, and if any thing was wanting to prove the inflexible determination of the present ministry to persevere in the orders in council without modification or relaxation, the declarations of the leading members of administration on these occasions, must place it beyond the possibility of doubt. In both houses these leaders expressed a disposition to forbear to canvass, in the present state of our relations, the conduct of the United States towards England, as it could not be done without reproaching her in a manner to increase the actual irritation, and

to do away what lord Bathurst stated to be the *feeble* hopes of preventing war.

"In the house of commons, Mr. Rose virtually confessed that the orders in council were maintained to promote the trade of England at the expense of neutrals, and as a measure of commercial rivalry with the United States. When Mr. Canning inveighed against this new (he must have meant newly acknowledged) ground of defending these orders, and contended that they could be justified only on the principle of retaliation, on which they were avowedly instituted, and that they were intended to produce the effects of an actual blockade and liable to all the incidents of such blockade—that is, that they were meant only to distress the enemy—and that Great Britain had no right to defeat this operation by an intercourse with that enemy which she denied to neutrals; Mr. Percival replied, "that the orders were still supported on the principle of retaliation, but that this very principle involved the license trade; for as France by her decrees had said that no nation should trade with her which traded with England, England retorted, that no country should trade with France but through England. He asserted that neither the partial nor even the total repeal of the Berlin and Milan decrees, as they related to America, or to any other nation, or *all* other nations, would form any claim on the British government, while the *continental system*, so called, continued in operation. He denied that this system or any part of the Berlin and Milan decrees were merely *municipal*. They had not been adopted in time of peace with a view to internal regulation, but in a time of war with a hostile purpose towards England. Every clause and particle of them were to be considered of a nature entirely belligerent, and as such, requiring resistance and authorizing retaliation on the part of Great Britain. It was idle and absurd to suppose that Great Britain was bound, in acting on the principle of retaliation in these times, to return exactly and in form *like for like*, and to choose the object and fashion the mode of executing it precisely by the measures of the enemy. In adopting these measures France had broken through all the restraints imposed by the laws of nations, and trodden under foot the great conventional code received by the civilized world as prescribing rules for its conduct in war

as well as in peace. In this state of things England was not bound any longer to shackle herself with this code, and by so doing become the unresisting victim of the violence of her enemy, but she was herself released from the laws of nations, and left at liberty to resort to any means within her power to injure and distress that enemy and to bring it back to an observance of the *jus gentium* which it had so egregiously and wantonly violated. Nor was England to be restricted any more in the *extent* than in the *form* of retaliation; but she had a right, both as to the quantity and manner, to inflict upon the enemy all the evil in her power, until this enemy should retrace its steps, and renounce, not only verbally but practically, its decrees, its continental system and every other of its belligerent measures incompatible with the old acknowledged laws of nations. Whatever neutrals might suffer from the retaliatory measures of England was purely incidental, and as no injustice was intended to them they had a right to complain of none; and he rejoiced to observe that no charge of such injustice had that night been brought forward in the house. As England was contending for the defence of her maritime rights and for the preservation of her national existence, which essentially depended on the maintenance of those rights, she could not be expected, in the prosecution of this great and primary interest, to arrest or vary her course, to listen to the pretensions of neutral nations, or to remove the evils, however they might be regretted, which the imperious policy of the times indirectly and unintentionally extended to them."

"As the newspapers of this morning give but a very imperfect report of this speech of Mr. Percival, I have thought it to be my duty to present you with a more particular account of the doctrines which were maintained in it, and which so vitally affect the rights and interests of the United States.

"I no longer entertain a hope that we can honourably avoid war."

Extract of a Letter from Mr. Russell to the Secretary of State. London, March 20, 1812.

"I HAD the honour to address you on the 4th inst. giving a brief account of the debate in the house of commons on the preceding evening. Since then no change in relation to us, has taken place here."

Extract of a Letter from Mr. Russell to the Secretary of State. London, March 28, 1812.

"SINCE I had the honour to address you a few days since, nothing has occurred here to induce a hope of any change in our favour."

Extract of a Letter from Mr. Russell to the Secretary of State. London, April 9, 1812.

"SINCE my last respects to you, nothing of importance to us has occurred here."

REPORT, OR MANIFESTO,

OF THE CAUSES AND REASONS OF WAR WITH GREAT BRITAIN, PRESENTED TO THE HOUSE OF REPRESENTATIVES BY THE COMMITTEE OF FOREIGN RELATIONS. JUNE 3, 1812.

THE Committee on Foreign Relations to whom was referred the Message of the President of the United States, of the 1st of June, 1812, Report—

THAT after the experience which the United States have had of the great injustice of the British government towards them, exemplified by so many acts of violence and oppression, it will be more difficult to justify to the impartial world their patient forbearance, than the measures to which it has become necessary to resort, to avenge the wrongs and vindicate the rights and honour of the nation. Your committee are happy to observe, on a dispa-

sionate view of the conduct of the United States, that they see in it no cause for censure.

If a long forbearance under injuries ought ever to be considered a virtue in any nation, it is one which peculiarly becomes the United States. No people ever had stronger motives to cherish peace : none have ever cherished it with greater sincerity and zeal.

But the period has now arrived, when the United States must support their character and station among the nations of the earth, or submit to the most shameful degradation. Forbearance has ceased to be a virtue. War on the one side, and peace on the other, is a situation as ruinous as it is disgraceful. The mad ambition, the lust of power and commercial avarice of Great Britain, arrogating to herself the complete dominion of the ocean, and exercising over it an unbounded and lawless tyranny, have left to neutral nations an alternative only between the base surrender of their rights, and a manly vindication of them. Happily for the United States their destiny, under the aid of Heaven, is in their own hands. The crisis is formidable only by their love of peace. As soon as it becomes a duty to relinquish that situation, danger disappears. They have suffered no wrongs, they have received no insults, however great, for which they cannot obtain redress.

More than seven years have elapsed, since the commencement of this system of hostile aggression by the British government, on the rights and interests of the United States. The manner of its commencement was not less hostile than the spirit with which it has been prosecuted. The United States have invariably done every thing in their power to preserve the relations of friendship with Great Britain. Of this disposition they gave a distinguished proof at the moment when they were made the victims of an opposite policy. The wrongs of the last war had not been forgotten at the commencement of the present one. They warned us of dangers, against which it was sought to provide. As early as the year 1804, the minister of the United States at London was instructed to invite the British government to enter into a negotiation on all the points on which a collision might arise between the two countries, in the course of the war, and to propose to it an arrangement of their claims, on fair and reasonable conditions. The invitation was ac-

cepted. A negotiation had commenced and was depending, and nothing had occurred to excite a doubt that it would not terminate to the satisfaction of both the parties. It was at this time, and under these circumstances, that an attack was made, by surprise, on an important branch of the American commerce, which affected every part of the United States, and involved many of their citizens in ruin.

The commerce on which this attack was so unexpectedly made, was that between the United States and the colonies of France, Spain and other enemies of Great Britain. A commerce just in itself; sanctioned by the example of Great Britain in regard to the trade with her own colonies; sanctioned by a solemn act between the two governments in the last war; and sanctioned by the practice of the British government in the present war: more than two years having then elapsed, without any interference with it.

The injustice of this attack could only be equalled by the absurdity of the pretext alleged for it. It was pretended by the British government, that in case of war, her enemy had no right to modify its colonial regulations, so as to mitigate the calamities of war to the inhabitants of its colonies. This pretension, peculiar to Great Britain, is utterly incompatible with the rights of sovereignty in every independent state. If we recur to the well established, and universally admitted law of nations, we shall find no sanction to it in that venerable code. The sovereignty of every state is co-extensive with its dominions, and cannot be abrogated, or curtailed in its rights, as to any part, except by conquest. Neutral nations have a right to trade to every port of either belligerent, which is not legally blockaded; and in all articles which are not contraband of war. Such is the absurdity of this pretension, that your committee are aware, especially after the able manner in which it has been heretofore refuted and exposed, that they would offer an insult to the understanding of the house, if they enlarged on it; and if any thing could add to the high sense of the injustice of the British government in this transaction, it would be the contrast which her conduct exhibits in regard to this trade, and in regard to a similar trade by neutrals, with her own colonies. It is known to the world that Great Britain regu-

lates her own trade, in war and in peace, at home and in her colonies, as she finds for her interest: that in war she relaxes the restraints of her colonial system in favour of the colonies, and that it never was suggested that she had not a right to do it; or that a neutral in taking advantage of the relaxation violated a belligerent right of her enemy. But with Great Britain every thing is lawful. It is only in a trade with her enemies, that the United States can do wrong: with them all trade is unlawful.

In the year 1793 an attack was made by the British government on the same branch of our neutral trade, which had nearly involved the two countries in war. That difference however was amicably accommodated. The pretension was withdrawn, and reparation made to the United States for the losses which they had suffered by it. It was fair to infer from that arrangement, that the commerce was deemed by the British government lawful, and that it would not be again disturbed.

Had the British government been resolved to contest this trade with neutrals, it was due to the character of the British nation that the decision should be made known to the government of the United States. The existence of a negotiation which had been invited by our government, for the purpose of preventing differences, by an amicable arrangement of their respective pretensions, gave a strong claim to the notification, while it afforded the fairest opportunity for it. But a very different policy animated the then cabinet of England. Generous sentiments were unknown to it. The liberal confidence and friendly overtures of the United States were taken advantage of to ensnare them. Steady to its purpose, and inflexibly hostile to this country, the British government calmly looked forward to the moment when it might give the most deadly wound to our interests. A trade, just in itself, which was secured by so many strong and sacred pledges, was considered safe. Our citizens, with their usual industry and enterprize, had embarked in it a vast proportion of their shipping and of their capital, which were at sea under no other protection than the law of nations, and the confidence which they reposed in the justice and friendship of the British nation. At this period the unexpected blow was given. Many of our vessels were seized, carried into port and condemned by a tribunal, which, while it pro-

fesses to respect the law of nations, obeys the mandate of its own government in opposition to all law. Hundreds of other vessels were driven from the ocean, and the trade itself in a great measure suppressed.

The effect produced by this attack on the lawful commerce of the United States, was such as might have been expected from a virtuous, independent, and highly injured people. But one sentiment pervaded the whole American nation. No local interests were regarded, no sordid motives felt. Without looking to the parts which suffered most, the invasion of our rights was considered a common cause, and from one extremity of our Union to the other was heard the voice of an united people, calling on their government to avenge their wrongs, and vindicate the rights and honour of the country.

From this period the British government has gone on in a continued encroachment on the rights and interests of the United States, disregarding in its course, in many instances, obligations which have heretofore been held sacred by civilized nations.

In May, 1806, the whole coast of the continent, from the Elbe to Brest, inclusive, was declared to be in state of blockade. By this act, the well established principles of the law of nations, principles which have served for ages as guides, and fixed the boundary between the rights of belligerents and neutrals, were violated. By the law of nations, as recognised by Great Britain herself, no blockade is lawful unless it be sustained by the application of an adequate force; and that an adequate force was applied to this blockade, in its full extent, ought not to be pretended. Whether Great Britain was able to maintain legally, so extensive a blockade, considering the war in which she is engaged, requiring such extensive naval operations, is a question which it is not necessary at this time to examine. It is sufficient to be known that such force was not applied, and this is evident from the terms of the blockade itself, by which, comparatively, an inconsiderable portion of the coast only, was declared to be in a state of strict and rigorous blockade. The objection to the measure is not diminished by that circumstance. If the force was not applied, the blockade was unlawful, from whatever cause the failure might proceed. The belligerent who institutes the blockade cannot absolve itself from the obligation to

apply the force, under any pretext whatever. For a belligerent to relax a blockade which it could not maintain, with a view to absolve itself from the obligation to maintain it, would be a refinement in injustice, not less insulting to the understanding than repugnant to the law of nations. To claim merit for the mitigation of an evil which the party either had not the power, or found it inconvenient to inflict, would be a new mode of encroaching on neutral rights. Your committee think it just to remark, that this act of the British government does not appear to have been adopted in the sense in which it has been since construed. On consideration of all the circumstances attending the measure, and particularly the character of the distinguished statesman who announced it, we are persuaded that it was conceived in a spirit of conciliation, and intended to lead to an accommodation of all differences between the United States and Great Britain. His death disappointed that hope, and the act has since become subservient to other purposes. It has been made by his successors a pretext for that vast system of usurpation, which has so long oppressed and harassed our commerce.

The next act of the British government which claims our attention, is the order of council of January 7, 1807, by which neutral powers are prohibited trading from one port to another of France, or her allies, or any other country with which Great Britain might not freely trade. By this order the pretension of England, heretofore disclaimed by every other power, to prohibit neutrals disposing of parts of their cargoes at different ports of the same enemy, is revived, and with vast accumulation of injury. Every enemy, however great the number, or distant from each other, is considered one, and the like trade even with powers at peace with England, who, from motives of policy, had excluded or restrained her commerce, was also prohibited. In this act, the British government evidently disclaimed all regard for neutral rights. Aware that the measures authorized by it, could find no pretext in any belligerent right, none was urged. To prohibit the sale of our produce, consisting of innocent articles, at any port of a belligerent, not blockaded; to consider every belligerent as one, and subject neutrals to the same restraints with all, as if there was but one, were bold encroachments. But to restrain, or in any manner interfere with our commerce

with neutral nations, with whom Great Britain was at peace, and against whom she had no justifiable cause of war, for the sole reason that they restrained or excluded from their ports her commerce, was utterly incompatible with the pacifick relations subsisting between the two countries.

We proceed to bring into view the British order in council of November 11, 1807, which superseded every other order, and consummated that system of hostility on the commerce of the United States, which has been since so steadily pursued. By this order, all France and her allies, and every other country at war with Great Britain, or with which she was not at war, from which the British flag was excluded, and all the colonies of her enemies, were subjected to the same restrictions, as if they were actually blockaded in the most strict and rigorous manner; and all trade in articles, the produce and manufacture of the said countries and colonies, and the vessels engaged in it, were subjected to capture and condemnation as lawful prize. To this order certain exceptions were made, which we forbear to notice, because they were not adopted from a regard to neutral rights, but were dictated by policy to promote the commerce of England, and so far as they related to neutral powers, were said to emanate from the clemency of the British government.

It would be superfluous in your committee to state, that by this order the British government declared direct and positive war against the United States. The dominion of the ocean was completely usurped by it, all commerce forbidden, and every flag driven from it, or subjected to capture and condemnation, which did not subserve the policy of the British government by paying it a tribute, and sailing under its sanction. From this period the United States have incurred the heaviest losses, and most mortifying humiliations. They have borne the calamities of war, without retorting them on its authors.

So far your committee has presented to the view of the house, the aggressions which have been committed under the authority of the British government on the commerce of the United States. We will now proceed to other wrongs which have been still more severely felt. Among these is the impressment of our seamen, a practice which has been unceasingly maintained by Great Britain in the

wars to which she has been a party since our revolution. Your committee cannot convey in adequate terms the deep sense which they entertain of the injustice and oppression of this proceeding. Under the pretext of impressing British seamen, our fellow citizens are seized in British ports, on the high seas, and in every other quarter to which the British power extends; are taken on board British men of war, and compelled to serve there as British subjects. In this mode our citizens are wontonly snatched from their country and their families; deprived of their liberty, and doomed to an ignominious and slavish bondage; compelled to fight the battles of a foreign country, and often to perish in them. Our flag has given them no protection; it has been unceasingly violated, and our vessels exposed to danger by the loss of the men taken from them.

Your committee need not remark, that while this practice is continued, it is impossible for the United States to consider themselves an independent nation. Every new case is a new proof of their degradation. Its continuance is the more unjustifiable, because the United States have repeatedly proposed to the British government an arrangement which would secure to it the control of its own people. An exemption of the citizens of the United States from this degrading oppression, and their flag from violation, is all that they have sought.

This lawless waste of our trade, and equally unlawful impressment of our seamen, have been much aggravated by the insults and indignities attending them. Under the pretext of blockading the harbours of France and her allies, British squadrons have been stationed on our own coast, to watch and annoy our own trade. To give effect to the blockade of European ports, the ports and harbours of the United States have been blockaded. In executing these orders of the British government, or in obeying the spirit which was known to animate it, the commanders of these squadrons have encroached on our jurisdiction, seized our vessels, and carried into effect impressments within our limits, and done other acts of great injustice, violence, and oppression. The United States have seen, with mingled indignation and surprise, that these acts, instead of procuring to the perpetrators the punishment due to

unauthorized crimes, have not failed to recommend them to the favour of their government.

Whether the British government has contributed by active measures to excite against us the hostility of the savage tribes on our frontiers, your committee are not disposed to occupy much time in investigating. Certain indications of general notoriety may supply the place of authentic documents, though these have not been wanting to establish the fact in some instances. It is known that symptoms of British hostility towards the United States have never failed to produce corresponding symptoms among those tribes. It is also well known that on all such occasions, abundant supplies of the ordinary munitions of war have been afforded by the agents of British commercial companies, and even from British garrisons, wherewith they were enabled to commence that system of savage warfare on our frontiers, which has been at all times indiscriminate in its effect, on all ages, sexes and conditions, and so revolting to humanity.

Your committee would be much gratified if they could close here the detail of British wrongs; but it is their duty to recite another act of still greater malignity, than any of those which have been already brought to your view. The attempt to dismember our Union, and overthrow our excellent constitution by a secret mission, the object of which was to foment discontents and excite insurrection against the constituted authorities and laws of the nation, as lately disclosed by the agent employed in it, affords full proof that there is no bound to the hostility of the British government towards the United States: no act, however unjustifiable, which it would not commit to accomplish their ruin. This attempt excites the greater horror, from the consideration that it was made while the United States and Great Britain were at peace, and an amicable negotiation was depending between them for the accommodation of their differences, through publick ministers regularly authorized for the purpose.

The United States have beheld with unexampled forbearance, this continued series of hostile encroachments on their rights and interests, in the hope, that yielding to the force of friendly remonstrances, often repeated, the British government might adopt a more just policy towards them; but that hope no longer exists. They have also

weighed impartially the reasons which have been urged by the British government in vindication of those encroachments, and found in them neither justification nor apology.

The British government has alleged, in vindication of the orders in council, that they were resorted to as a retaliation on France, for similar aggressions committed by her on our neutral trade with the British dominions. But how has this plea been supported? The dates of British and French aggressions are well known to the world. Their origin and progress have been marked with too wide and destructive a waste of the property of our fellow citizens, to have been forgotten. The decree of Berlin, of November 21st, 1806, was the first aggression of France in the present war. Eighteen months had then elapsed, after the attack made by Great Britain on our neutral trade with the colonies of France and her allies, and six months from the date of the proclamation of May, 1806. Even on the 7th of January, 1807, the date of the first British order in council, so short a term had elapsed after the Berlin decree, that it was hardly possible that the intelligence of it should have reached the United States. A retaliation which is to produce its effect, by operating on a neutral power, ought not to be resorted to till the neutral had justified it, by a culpable acquiescence in the unlawful act of the other belligerent. It ought to be delayed until after sufficient time had been allowed to the neutral to remonstrate against the measures complained of, to receive an answer, and to act on it, which had not been done in the present instance. And when the order of November 11th was issued, it is well known that a minister of France had declared to the minister plenipotentiary of the United States at Paris, that it was not intended that the decree of Berlin should apply to the United States. It is equally well known that no American vessel had then been condemned under it, or seizure been made, with which the British government was acquainted. The facts prove incontestably that the measures of France, however unjustifiable in themselves, were nothing more than a pretext for those of England. And of the insufficiency of that pretext, ample proof has already been afforded by the British government itself, and in the most impressive form. Although it was declared that the orders in council were re-

taliatory on France for her decrees, it was also declared, and in the orders themselves, that owing to the superiority of the British navy, by which the fleets of France and her allies were confined within their own ports, the French decrees were considered only as empty threats.

It is no justification of the wrongs of one power, that the like were committed by another; nor ought the fact, if true, to have been urged by either, as it could afford no proof of its love of justice, of its magnanimity, or even of its courage. It is more worthy the government of a great nation, to relieve than to assail the injured. Nor can a repetition of the wrongs by another power repair the violated right or wounded honour of the injured party. An utter inability alone to resist, could justify a quiet surrender of our rights, and degrading submission to the will of others. To that condition the United States are not reduced, nor do they fear it. That they ever consented to discuss with either power the misconduct of the other, is a proof of their love of peace, of their moderation, and of the hope which they still indulged, that friendly appeals to just and generous sentiments would not be made to them in vain. But the motive was mistaken, if their forbearance was imputed either to the want of a just sensibility to their wrongs, or a determination, if suitable redress was not obtained, to resent them. The time has now arrived when this system of reasoning must cease. It would be insulting to repeat it. It would be degrading to hear it. The United States must act as an independent nation, and assert their rights, and avenge their wrongs, according to their own estimate of them, with the party who commits them, holding it responsible for its own misdeeds, unmitigated by those of another.

For the difference made between Great Britain and France, by the application of the non-importation act against England only, the motive has been already too often explained, and is too well known to require further illustration. In the commercial restrictions to which the United States resorted as an evidence of their sensibility, and a mild retaliation of their wrongs, they invariably placed both powers on the same footing, holding out to each in respect to itself, the same accommodation, in case it accepted the condition offered, and in respect to the other, the same restraint if it refused. Had the British

government confirmed the arrangement which was entered into with the British minister in 1809, and France maintained her decrees, with France would the United States have had to resist, with the firmness belonging to their character, the continued violation of their rights. The committee do not hesitate to declare, that France has greatly injured the United States, and that satisfactory reparation has not yet been made for many of those injuries. But, that is a concern which the United States will look to and settle for themselves. The high character of the American people, is a sufficient pledge to the world that they will not fail to settle it, on conditions which they have a right to claim.

More recently the true policy of the British government towards the United States, has been completely unfolded. It has been publicly declared by those in power, that the orders in council should not be repealed until the French government had revoked all its internal restraints on the British commerce; and that the trade of the United States with France and her allies, should be prohibited, until Great Britain was also allowed to trade with them. By this declaration it appears, that to satisfy the pretensions of the British government, the United States must join Great Britain in the war with France, and prosecute the war until France should be subdued; for without her subjugation, it were in vain to presume on such a concession. The hostility of the British government to these States has been still further disclosed. It has been made manifest that the United States are considered by it as the commercial rival of Great Britain, and that their prosperity and growth are incompatible with her welfare. When all these circumstances are taken into consideration, it is impossible for your committee to doubt the motives which have governed the British ministry in all its measures towards the United States, since the year 1805. Equally is it impossible to doubt, longer, the course which the United States ought to pursue towards Great Britain.

From this review of the multiplied wrongs of the British government since the commencement of the present war, it must be evident to the impartial world, that the contest which is now forced on the United States, is radically a contest for their sovereignty and independence. Your committee will not enlarge on any of the injuries, however

great, which have had a transitory effect. They wish to call the attention of the House to those of a permanent nature only, which intrench so deeply on our most important rights, and wound so extensively and vitally our best interests, as could not fail to deprive the United States of the principal advantages of their revolution, if submitted to. The control of our commerce by Great Britain in regulating, at pleasure, and expelling it almost from the ocean; the oppressive manner in which these regulations have been carried into effect, by seizing and confiscating such of our vessels, with their cargoes, as were said to have violated her edicts, often without previous warning of their danger; the impressment of our citizens from on board our own vessels on the high seas, and elsewhere, and holding them in bondage till it suited the convenience of their oppressors to deliver them up, are encroachments of that high and dangerous tendency, which could not fail to produce that pernicious effect: nor would these be the only consequences that would result from it. The British government might, for a while, be satisfied with the ascendancy thus gained over us, but its pretensions would soon increase. The proof which so complete and disgraceful a submission to its authority would afford of our degeneracy, could not fail to inspire confidence, that there was no limit to which its usurpations, and our degradation, might not be carried.

Your committee, believing that the free born sons of America are worthy to enjoy the liberty which their fathers purchased at the price of so much blood and treasure, and seeing in the measures adopted by Great Britain, a course commenced and persisted in, which must lead to a loss of national character and independence, feel no hesitation in advising resistance by force; in which the Americans of the present day will prove to the enemy and to the world, that we have not only inherited that liberty which our fathers gave us, but also the will and power to maintain it. Relying on the patriotism of the nation, and confidently trusting that the Lord of Hosts will go with us to battle in a righteous cause, and crown our efforts with success, your committee recommend an immediate appeal to arms.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JUNE 4, 1812.

I TRANSMIT, for the information of Congress, copies of a correspondence of the minister plenipotentiary of Great Britain, with the Secretary of State.

JAMES MADISON.

Mr. Foster to Mr. Monroe. Washington, May 30, 1812.

SIR,—Notwithstanding the discouraging nature of the conversation which I had the honour to have with you a few days since at your office, and the circumstance of your continued silence in regard to two letters from me, furnishing additional proof of the existence of the French decrees, nevertheless, there does now appear such clear and convincing evidence in the report of the duke of Bassano, dated the 10th of March, of the present year, of those decrees having not only never been rescinded, but of their being recently extended and aggravated in the republication of them contained in that instrument, that I cannot but imagine it will seem most important to the President that it should be communicated to Congress, without delay, in the present interesting crisis of their deliberations; and therefore hasten to fulfil the instructions of my government, in laying before the government of the United States the enclosed *Moniteur* of the 16th of last March, in which is contained that report, as it was made to the ruler of France, and communicated to the conservative senate.

This report confirms, if any thing were wanting to confirm, in the most unequivocal manner, the repeated assertions of Great Britain, that the Berlin and Milan decrees have never been revoked, however some partial and insidious relaxations of them may have been made in a few instances, as an encouragement to America to adopt a system beneficial to France, and injurious to Great Britain, while the conditions on which alone it has been declared that those decrees will ever be revoked, are here

explained and amplified in a manner to leave us no hope of Bonaparte having any disposition to renounce the system of injustice which he has pursued, so as to make it possible for Great Britain to give up the defensive measures she has been obliged to resort to.

I need not remind you, sir, how often it has in vain been urged by Great Britain, that a copy of the instrument should be produced, by which the decrees of Bonaparte were said to be repealed, and how much it has been desired that America should explicitly state that she did not adopt the conditions on which the repeal was offered.

It is now manifest that there was never more than a conditional offer of repeal made by France, which we had a right to complain that America should have asked us to recognise as *absolute*, and which, if accepted in its extent by America, would only have formed fresh matter of complaint, and a new ground for declining her demands.

America must feel that it is impossible for Great Britain to rescind her orders in council, whilst the French decrees are officially declared to remain in force against all nations not subscribing to the new maritime code promulgated in those decrees; and also without something more explicit on the part of America, with regard to her understanding as to the conditions annexed by France to the repeal of those decrees. For, after what has passed, unless a full and satisfactory explanation be made on both these points, Great Britain cannot relinquish her retaliatory system against France, without implying her consent to the admissibility of the conditions in question.

These observations, will, I am sure, appear sufficiently obvious to you, sir, on perusing the enclosed paper.

It will be at once acknowledged, that this paper is a republication of the Berlin and Milan decrees, in a more aggravated form, accompanied as it is with an extension of all the obnoxious doctrines which attend those decrees, inflamed by a declaration that Bonaparte has annexed to France every independent state in his neighbourhood which had eluded them; and that he was proceeding against all other maritime parts of Europe, on the pretence that his system could not be permanent and complete, so long as they retained their liberty with regard to it.

The outrageous principle here avowed connects itself obviously with the proposition too much countenanced by

America, that the continental system of Bonaparte, as far as it operates to the confiscation of neutral property on shore, on the ground of such property being British produce or manufacture, is a mere municipal regulation which neutral or belligerent nations have no right to resent, because it does not violate any principle of the law of nations. It is unnecessary to recur to the various arguments by which it has been shown that this system does not partake of the character of municipal regulation, which neutral or belligerent nations have no right to resent, because it does not violate any principle of the law of nations ; but that it is a mere war measure, directed with the most hostile spirit against Great Britain ; and, in order to extend this system, on the principle of municipal regulation, all the rights of independent neutral nations are to be violated, their territories to be seized without any other cause of war whatever, but that they may be incorporated with the French nation, and thence becoming subject to her rights of dominion, receive the continental system as a municipal regulation of France ; and thus the mere possibility of non-compliance with the whole of the system is made the ground for the occupation or invasion, the incorporation or extinction of every state where the French arms can reach.

Great Britain cannot believe that America will not feel a just indignation at the full development of such a system ; a system which indeed Bonaparte has partially opened before, and has in the instances of the Hanseatic towns, of Portugal and other countries, carried into complete execution, but which he has never completely unfolded in all its extent until the present moment ; and in what an insulting and preposterous shape does he now attempt to bring forward and promulgate this code which he is to force upon all nations ? He assumes the treaty of Utrecht to be in force, and to be a law binding upon all nations, because it suits his convenience at this moment, when the navy of France is driven from the ocean, to revive the doctrine of " free ships making free goods ;" he has recourse to a treaty no longer in force, in which such a stipulation existed ; a treaty which, by his own express refusal at Amiens to renew any of the ancient treaties, was not then revived even as binding on Great Britain and France, between whom alone, as parties to it, and only while they

were at peace with each other, could it ever have had any legal effect ; yet even this treaty is too narrow a basis for his present pretensions, since he cannot find in it his rule for limiting maritime blockades to fortresses actually invested, besieged, and likely to be taken ; no provision of any description having been made in that treaty either for defining or regulating blockades.

Surely, at such an instant, America will not urge Great Britain to abandon or to soften any precautionary, any retaliatory rights against such a power. The British government not only feels itself imperiously bound to defend them as they respect Great Britain with all vigour, but to call upon every nation to resist such exorbitant pretensions.

If Great Britain, at such a moment, were to relax her orders in council against France, would not all other nations have reason to complain that the common cause was abandoned ?

America must feel that Bonaparte is not acting, as indeed he never has acted, with any view of establishing principles of real freedom with respect to navigation ; but is merely endeavouring to cloak his determination, if possible, to ruin Great Britain, by novel demands and rejected theories of maritime law ; and America must see, that Bonaparte's object is to exclude British commerce from every coast and port of the continent ; and that in pursuit of this object, trampling on the rights of independent states, he insultingly proclaims his determination to effect it by direct invasion of those independent states, which he as insultingly terms a *guaranty*, thus making the most solemn and sacred term in the law of nations synonymous with usurpation of territory and extinction of independence. America must see that, as all the states hitherto in his power have been seized on to *guaranty* his system, he is now proceeding to destroy whatever remains of independence in other neutral states, to make that *guaranty* complete.—From his want of power to pass the Atlantick with his armies (a want of power for which the United States are indebted to the naval superiority of Great Britain,) his system of a *guarantying* force may fail as to America, but as he cannot hope to shut American ports against Great Britain by occupancy and invasion, he hopes to effect his purpose by management and fraud, and to accom-

plish that by insidious relaxation which he cannot accomplish by power.

Great Britain, he feels, is only to be ruined by excluding her from every port in the world; he hopes therefore to shut every port in Europe by force, and every port in America by management; he pretends to conciliate America by applause of her conduct, and a partial relaxation of his system in her favour.—He accompanies the promise of repealing his decrees with conditions, which he trusts America will not disavow, and which he knows Great Britain must reject; knowing, at the same time, that the relaxation of his decrees will be of little use to America, without a corresponding relaxation by Great Britain, he throws every obstacle against concession to America by Great Britain, making her perseverance in her retaliatory system more than ever essential to her honour and existence. And surely it will not escape the notice, or fail to excite the indignation of the American government, that the ruler of France, by taking the new ground now assumed, has retracted the concession which America supposed him to have made: He has inconsistently and contemptuously withdrawn from her the ground upon which she has taken a hostile attitude against Great Britain, since the repeal of our orders in council, and even the renunciation of our rights of blockade, would no longer suffice to obtain a repeal of the Berlin and Milan decrees.

His majesty's government cannot but hope that America, considering all the extravagant pretensions set forth by the ruler of France, in the duke of Bassano's report, and at the same time the resolution to march his armies into all states, into the ports of which the English flag is admitted, will acknowledge, that this doctrine and resolution constitute a complete annihilation of neutrality, and that she is bound, as a neutral state, to disavow and resist them. Every state that acquiesces in this report, must act upon the principle, that neutral and enemy are to be considered henceforward as the same in the language of the French law of nations; and Great Britain has a right to consider that every nation who refuses to admit her flag upon the principle assumed admits and recognises the doctrine of the report.

I will not now trouble you, sir, with many observations relative to the blockade of May, 1806, as the legality of that blockade, assuming the blockading force to have been sufficient to enforce it, has latterly not been questioned by you.

I will merely remark that it was impossible Great Britain should receive, otherwise than with the utmost jealousy, the unexpected demand made by America for the repeal of the blockade as well as of the orders in council, when it appeared to be made subsequent to, if not in consequence of, one of the conditions in Bonaparte's pretended repeal of his decrees, which condition was our renouncing what he calls "our new principles of blockade;" that the demand on the part of America was additional and new, is sufficiently proved by a reference to the overture of Mr. Pinkney, as well as from the terms on which Mr. Erskine had arranged the dispute with America relative to the orders in council. In that arrangement nothing was brought forward with regard to this blockade. America would have been contented at that time without any reference to it. It certainly is not more a grievance, or an injustice, now, than it was then. Why then is the renunciation of that blockade insisted upon now, if it was not necessary to insist upon it then? It is difficult to find any answer but by reference to subsequent communications between France and America, and a disposition in America to countenance France in requiring the disavowal of this blockade and the principles upon which it rested, as the condition *sine qua non* of the repeal of the Berlin and Milan decrees. It seems to have become an object with America, only because it was prescribed as a condition by France.

On this blockade and the principles and rights upon which it was founded, Bonaparte appears to rest the justification of all his measures for abolishing neutrality, and for the invasion of every state which is not ready, with him, to wage a war of extermination against the commerce of Great Britain.

America, therefore, no doubt, saw the necessity of demanding its renunciation, but she will now see that it is in reality vain either for America or Great Britain to expect an actual repeal of the French decrees, until Great Britain renounces, First, the basis, viz. the blockade of 1806, on which Bonaparte has been pleased to found them; next,

the right of retaliation as subsequently acted upon in the orders in council; further, until she is ready to receive the treaty of Utrecht, interpreted and applied by the duke of Bassano's report as the universal law of nations; and finally, till she abjures all the principles of maritime law which support her established rights, now more than ever essential to her existence as a nation.

Great Britain feels confident that America never can maintain or ultimately sanction such pretensions; and his royal highness the prince regent entertains the strongest hope that this last proceeding of France will strip her measures of every remnant of disguise, and that America, in justice to what she owes to the law of nations, and to her own honour as a neutral state, will instantly withdraw her countenance from the outrageous system of the French government, and cease to support, by hostile measures against British commerce, the enormous fabric of usurpation and tyranny, which France has endeavoured to exhibit to the world as the law of nations.

America cannot now contend that the orders in council exceed in spirit of retaliation what is demanded by the decrees, the principles, or the usurpations of Bonaparte. The United States government must at last be convinced that the partial relaxations of those decrees in favour of America have been insidiously adopted by France, for the mere purpose of inducing her to close her ports against Great Britain, which France cannot effect herself by force; and she must admit that if Great Britain were now to repeal her orders in council against France, it would be gratuitously allowing to France the commerce of America, and all the benefits derivable from her flag, as an additional instrument for the annoyance of Great Britain; and that at a moment when every state is threatened with destruction, or really destroyed, for merely supporting their own rights to trade with Great Britain.

I am commanded, sir, to express on the part of his royal highness the prince regent, that while his royal highness entertains the most sincere desire to conciliate America, he yet can never concede that the blockade of May, 1806, could justly be made the foundation, as it avowedly has been, for the decrees of Bonaparte; and further, that the British government must ever consider the principles on which that blockade rested (accompanied as it was, by an

adequate blockading force) to have been strictly consonant to the established law of nations, and a legitimate instance of the practice which it recognises.

Secondly, that Great Britain must continue to reject the other spurious doctrines promulgated by France in the duke of Bassano's report, as binding upon all nations. She cannot admit, as a true declaration of publick law, that free ships make free goods, nor the converse of that proposition, that enemy's ships destroy the character of neutral property in the cargo : she cannot consent, by the adoption of such a principle, to deliver absolutely the commerce of France from the pressure of the naval power of Great Britain, and, by the abuse of the neutral flag, to allow her enemy to obtain, without the expense of sustaining a navy for the trade and property of French subjects, a degree of freedom and security, which even the commerce of her own subjects cannot find under the protection of the British navy.

She cannot admit, as a principle of publick law, that a maritime blockade can alone be legally applied to fortresses actually invested by land as well as by sea, which is the plain meaning or consequence of the duke of Bassano's definition.

She cannot admit, as a principle of publick law, that arms and military stores are alone contraband of war, and that ship timber and naval stores are excluded from that description. Neither can she admit, without retaliation, that the mere fact of commercial intercourse with British ports and subjects should be made a crime in all nations, and that the armies and decrees of France should be directed to enforce a principle so new and unheard of in war.

Great Britain feels, that to relinquish her just measures of self defence and retaliation, would be to surrender the best means of her own preservation and rights, and with them the rights of other nations, so long as France maintains and acts upon such principles.

I am commanded to represent to the government of America, that Great Britain feels herself entitled to expect from them an unreserved and candid disclaimer of the right of France to impose on her and on the world the maritime code which has been thus promulgated, and to the penalties of which America is herself declared to be liable if she fails to submit herself to its exactions. America

cannot, for her own character, any longer temporize on this subject, or delay coming to a distinct explanation with France, as well as with Great Britain, if she wishes to clear herself from the imputation of being an abettor of such injustice.

America, as the case now stands, has not a pretence for claiming from Great Britain a repeal of her orders in council. She must recollect that the British government never for a moment countenanced the idea, that the repeal of those orders could depend upon any partial or conditional repeal of the decrees of France. What she always avowed was her readiness to rescind her orders in council, as soon as France rescinded absolutely and unconditionally her decrees. She could not enter into any other engagement without the grossest injustice to her allies, as well as to neutral nations in general; much less could she do so, if any special exception was to be granted by France, upon conditions utterly subversive of the most important and indisputable maritime rights of the British empire.

America has now a proceeding forced upon her by France, on which, without surrendering any of those principles which she may deem it necessary for her own honour and security to maintain, she may separate herself from the violence and injustice of the enemy. She owes not only to herself to do so, but she is entitled to resent that course of conduct on the part of France which is the only impediment to her obtaining what she desires at the hands of Great Britain, namely, the repeal of the orders in council.

I am authorized to renew to the American government, the assurance of his royal highness's anxious desire to meet the wishes of America upon this point, whenever the conduct of the enemy will justify him in so doing.

Whilst America could persuade herself, however erroneously, that the Berlin and Milan decrees had been actually and totally repealed, and that the execution of the engagement made on that condition by the British government had been declined, she might deem it justifiable, as a consequence of such a persuasion, to treat the interest and commerce of France with preference and friendship, and those of Great Britain with hostility; but this delusion is at an end. America now finds the French decrees not

only in full force, but pointed with augmented hostility against Great Britain. Will the government of the United States declare that the measure now taken by France is that repeal of the obnoxious decrees, which America expected would lead to the repeal of the British orders in council? Will the American government, unless upon the principle of denying our retaliatory right of blockade, under any imaginable circumstances, declare that there is at this moment a ground upon which the repeal of our orders in council can be pressed upon us? Or that the repeal could now be warranted upon any other ground, than an express abdication of the right itself, which America well knows, whatever may be our desire to conciliate, is a concession which the British government cannot and will not make?

If this be true, for what purpose can she persevere in her hostile attitude towards Great Britain, and her friendly one towards France? Do the American government really wish to aid France in her attempt to subjugate Great Britain? Does America expect that Great Britain, contending against France, will, at the instance of America, disarm herself, and submit to the mercy of the opponent? If both these questions are answered in the negative, upon what ground can she for a moment longer continue the hostile measures against us? The American non-intercourse act was framed upon the express principle of continuing in force against the power, whether France or Great Britain, that should refuse to repeal its respective laws, of which America thought herself entitled to complain. But the repeal contemplated by that act was a *bona fide* repeal, and not a repeal upon an inadmissible condition, and America can never be justified in continuing to resent against us that failure of relief which is alone attributable to the insidious policy of the enemy, that has, for the purpose of embarrassing the discussion, interwoven the question of the decrees with the exaction of a relinquishment of almost the whole system of our maritime law.

It is not for the British government to dictate to that of America what ought to be the measure of her just indignation against the ruler of France, for having originated and persevered in a system of lawless violence, to the subversion of neutral rights, which, being necessarily retaliated

by Great Britain, has exposed America, with other neutral states, to losses which the British government has never ceased most sincerely to deplore. America must judge for herself, how much the original injustice of France towards her has been aggravated by the fraudulent professions of relinquishing her decrees by the steps adopted to mislead America, in order to embark her in measures which we trust she never would have taken, if she could have foreseen what has now happened; and ultimately, by threatening America with her vengeance, as a denationalized state, if she does not submit to be the instrument of her designs against Great Britain.

These are considerations for America to weigh; but what we are entitled to claim at her hands, as an act not less of policy than justice, is, that she should cease to treat Great Britain as an enemy. The prince regent does not desire retrospect when the interests of two countries so naturally connected by innumerable ties are concerned. It is more consonant to his royal highness's sentiments to contribute to the restoration of harmony and friendly intercourse, than to inquire why it has been interrupted. Feeling that nothing has been omitted on his part to relieve America from the inconveniences to which a novel system of warfare on the part of France unfortunately continues to expose her, and that the present unfriendly relations which, to their mutual prejudice, subsist between the two countries, have grown out of a misconception on the part of America both of the conduct and purpose of France; his royal highness considers himself entitled to call upon America to resume her relations of amity with Great Britain. In doing so, she will best provide for the interests of her own people; and I am authorized to assure the American government, that although his royal highness, acting in the name and on the behalf of his majesty, can never suffer the fundamental maxims of the British monarchy, in matters of maritime right, as consonant to the recognised law of nations, to be prejudiced in his hands, his royal highness will be ready at all times to concert with America, as to their exercise; and so to regulate their application as to combine, as far as may be, the interests of America with the object of effectually retaliating upon France the measure of her own injustice.

I will now terminate this letter by assuring you, sir, as I can with perfect truth, that the most cordial and sincere desire animates the councils of Great Britain to conciliate America, as far as may be consistent with the principles upon which the preservation of the power and independence of the British monarchy is held essentially to depend, and which cannot be abandoned without throwing her helpless and disarmed into the presence of her adversary.

I have the honour to be, &c.

AUG. J. FOSTER.

James Monroe, Esq. Secretary of State.

TRANSLATION.

Report of the Minister of Foreign Relations to His Majesty the Emperor and King, communicated to the Conservative Senate, in the Sitting of the 10th March, 1812.

SIRE,—The maritime rights of neutrals have been solemnly regulated by the treaty of Utrecht, which has become the common law of nations.

This law, expressly renewed in all the subsequent treaties, has consecrated the principles I am about to expose.

The flag covers the property. Enemy's property under a neutral flag is neutral, as neutral property under an enemy's flag is enemy's property. The only articles which the flag does not cover, are contraband articles; and the only articles which are contraband, are arms and munitions of war.

A visit of a neutral vessel, by an armed vessel, can only be made by a small number of men, the armed vessel keeping beyond the reach of cannon shot.

Every neutral vessel may trade from an enemy's port to an enemy's port, and from an enemy's port to a neutral port. The only ports excepted, are those really blockaded; and the ports really blockaded, are those which are invested, besieged, and in danger of being taken, (*en prevention d'être pris*) and into which a merchant ship could not enter without danger.

Such are the obligations of belligerent nations towards neutral nations; such are the reciprocal rights of both; such are the maxims consecrated by the treaties which form the publick law of nations. Often has England attempted to substitute for them arbitrary and tyrannical rules. Her unjust pretensions were repelled by all governments sensible to the voice of honour, and to the interests of their people. She saw herself constantly obliged to recognise in her treaties the principles which she wished to destroy; and when the peace of Amiens was violated, maritime legislation rested again on its ancient foundations.

By the course of events, the English navy became more numerous than all the forces of the other maritime powers.

England then supposed that she had nothing to fear; she might attempt every thing. She immediately resolved to subject the navigation of every sea, to the same laws which governed that of the Thames.

It was in 1806, that she commenced the execution of this system, which tended to make the common law of nations yield to the orders in council, and to the regulations of the admiralty of London.

The declaration of the 16th of May annihilated, by a single word, the rights of all maritime states (and) put under interdiction vast coasts and whole empires. From this moment, England no longer recognised neutrals on the seas.

The orders of 1807, imposed on all vessels an obligation to enter English ports, whatever might be their destination; to pay a tribute to England; and to subject their cargoes to the tariff of her customhouses.

By the declaration of 1806, all navigation was interdicted to neutrals. By the orders of 1807, the faculty of navigating was restored to them; but they could only use it for the advantage of English commerce, by the combinations of her interest, and to her profit.

The English government took off thereby the mask with which it had concealed its projects, proclaimed the universal dominion of the seas, regarded every people as their tributaries, and imposed upon the continent the expenses of the war which it maintained against it.

These unheard of measures excited a general indignation among those powers who cherished the sentiment of their independence and of their rights. But at London, they carried to the highest degree of elevation the national pride; they displayed to the English people a futurity rich with the most brilliant hopes.

Their commerce, their industry, were to be henceforward without competition; the productions of the two worlds were to flow into their ports, do homage to the maritime and commercial sovereignty of England, in paying to her a toll-duty, and afterwards proceed to other nations, burdened with enormous costs, from which English merchandise alone would have been exonerated.

Your majesty perceived, at a single glance, the evils with which the continent was threatened. The remedy was immediately resorted to. You annihilated, by your decrees, this arrogant and unjust enterprise, so destructive, to the independence of all states, and of the rights of every people.

The decree of Berlin replied to the declaration of 1806. The blockade of the British isles was opposed to the imaginary blockade established by England.

The decree of Milan replied to the orders of 1807; it declared *denationalized* every neutral vessel which submitted to English legislation, known to have touched at an English port, known to have paid a tribute to England, and which thereby renounced the independence and the rights of its flag. All the merchandise of the commerce and of the industry of England were blockaded in the British isles; the continental system excluded them from the continent.

Never did an act of reprisal attain its object in a manner more prompt, more certain, or more victorious. The decrees of Berlin and Milan turned against England the weapons which she had directed against universal commerce. The source of commercial prosperity, which she thought so abundant, became a source of calamity for English commerce; in the place of those exactions which were to have enriched her funds, a depreciation, continually increasing, impairs the wealth of the state, and that of individuals.

When the decrees of your majesty appeared, the whole continent foresaw that such would be the result, if they

received their entire execution; but, as much as Europe was accustomed to see your undertakings crowned with success, they were at a loss to conceive by what new prodigies your majesty would realize the great designs which have been so rapidly accomplished. Armed with all your power; nothing could turn your majesty from your object. Holland, the Hanseatic cities, the coasts which lie between the Zuyderzee and the Baltick, were to be united to France, subject to the same administration and the same regulations; the immediate and inevitable consequence of the legislation of the English government. Considerations of no kind were able to balance, in the mind of your majesty, the first interest of your empire.

I will not stop to recapitulate the advantages of this important resolution. After fifteen months, that is to say, after the *senatus consultum* of reunion, the decrees of your majesty press with all their weight upon England. She flattered herself to invade the commerce of the world, and her own commerce became a mere stock-jobbing affair, (*agiotage*) which could not be carried on but by means of twenty thousand licenses issued every year. Forced to obey the law of necessity, she thereby renounced her navigation act, the original foundation of her power. She aspired to the universal dominion of the seas, and navigation is interdicted to her vessels, repulsed from all the ports of the continent. She wished to enrich her funds with the tributes that Europe was to pay, and Europe has withdrawn itself, not only from her injurious pretensions, but likewise from the tributes which it paid to her industry. Her manufacturing cities have become deserted; distress has succeeded to a prosperity until then increasing; the alarming disappearance of specie, the absolute privation of business, daily interrupt the publick tranquillity. Such, for England, are the results of her imprudent attempts. She thence learns, and she will every day learn more fully, that there is no safety for her but in a return to justice and to the principles of the law of nations, and that she will not be able to participate in the benefits of the neutrality of ports, unless she will suffer neutrals to profit of the neutrality of their flag. But until then, and as long as the British orders in council are not revoked, and the principles of the treaty of Utrecht, in relation to neutrals, put in force, the decrees of Berlin and Milan ought to subsist for the powers

who suffer their flag to be denationalized. The ports of the continent ought to be opened neither to denationalized flags, nor to English merchandise.

It cannot be concealed, that to maintain, beyond the reach of attack, this great system, it is necessary that your majesty should employ the powerful means which belong to your empire, and find in your subjects that assistance which you have never asked in vain. All the disposable forces of France must be directed whithersoever the English flag, and flags denationalized, or convoyed by English vessels of war, may wish to enter. A particular army, exclusively charged with guarding our vast coasts, or maritime arsenals, and the triple row of fortresses which cover our frontiers, ought to answer to your majesty for the security of the territory confided to its valour and its fidelity; it will restore to their high destiny those brave men accustomed to fight and to conquer under the eyes of your majesty, for the defence of political rights, and the exterior security of the empire. Even the *depots* of corps will no longer be diverted from the useful destination of keeping up the numbers and the strength of your active armies. The forces of your majesty will be thus constantly maintained on the most formidable footing; and the French territory, protected by a permanent establishment, which is recommended by the interest, the policy, and dignity of the empire, will find itself in a situation which will make it more deserving of the title of inviolable and sacred.

It is a long time since the actual government of Great Britain proclaimed perpetual war; a frightful project, which the most unbridled ambition would not have dared to form, and which a presumptuous boasting could only have avowed; a frightful project which might, however, be realized, if France could hope for nothing but engagements without guaranty, of an uncertain length, and even more disastrous than war.

Peace, sire, which your majesty, in the midst of your great power, has so often offered to your enemies, will crown your glorious labours, if England, excluded with perseverance from the continent, and separated from all the states whose independence she has violated, consents at length to enter upon the principles which form the basis of European society, to acknowledge the laws of nations, and the rights consecrated by the treaty of Utrecht.

In the mean time, the French people must remain in arms: honour commands it; the interests, the rights, the independence of the nations engaged in the same cause, and an oracle still more certain, which has often been pronounced by your majesty, makes it an imperious and sacred law.

Mr. Monroe to Mr. Foster. Department of State, June 3, 1812.

SIR,—In the letter of May 30th, which I had the honour to receive from you on the 1st instant, I perceive a difference in a particular passage of it, from a passage on the same subject, in the despatch from lord Castlereagh to you, which you were so good as to communicate to me entire, as appears from the tenour of the letter to have been intended by your government. The passage in your letter to which I allude is as follows: “America, as the case now stands, has not a pretence for claiming from Great Britain a repeal of her orders in council. She must recollect that the British government never for a moment countenanced the idea that the repeal of those orders could depend upon any partial or conditional repeal of the decrees of France. What she always avowed, was, her readiness to rescind her orders in council as soon as France rescinded, absolutely and unconditionally, her decrees. She could not enter into any other engagement without the grossest injustice to her allies, as well as to neutral nations in general; much less could she do so if any special exception was to be granted by France upon conditions utterly subversive of the most important and indisputable maritime rights of the British empire.”

According to the tenour of the despatch of lord Castlereagh to you, my recollection is, that in stating the condition on which the orders in council were to be repealed, in relation to the United States, it was specified that the decrees of Berlin and Milan must not be repealed singly and specially in relation to the United States, but be repealed also as to all other neutral nations, and that in no less extent of a repeal of the decrees had the British government ever pledged itself to repeal the orders in council.

However susceptible the passage in your letter may be of a construction reconcileable with the import of the despatch from lord Castlereagh, yet as a similar phraseology of your government on other occasions has had a construction less extensive; and as it is important, in every respect, that there should be no misunderstanding, or possibility of error, you will excuse me for requesting that you will have the goodness to inform me whether, in any circumstance, my recollection of the import of this passage in lord Castlereagh's despatch is inaccurate.

I have the honour to be, &c.

JAMES MONROE.

Aug. J. Foster, &c. &c.

Mr. Foster to Mr. Monroe. Washington, June 3, 1812.

SIR,—I have received your letter of to-day, requesting an explanation relative to the supposed meaning of a passage in a despatch from lord Castlereagh to me, that I had the honour to communicate to you confidentially, and I beg leave to state to you, that while I conceive it to be very difficult to give an explanation upon a single point in a note of considerable length, without referring to the whole context, and also believe it to be altogether irregular to enter into a discussion respecting a communication so entirely informal, yet I have no hesitation in assuring you that my note of May 30 contains the whole substance of the despatch alluded to.

In the correspondence that will probably take place between us in consequence of the new ground upon which the duke of Bassano's report has placed the question at issue between our two countries, I shall be extremely happy to enter at full length upon any topick which you may wish particularly to discuss.

I have the honour to be, &c. &c.

AUG. J. FOSTER.

Mr. Monroe to Mr. Foster. Department of State, June 4, 1812.

SIR,—I have had the honour to receive your letter of yesterday, in reply to mine of the same date.

VOL. VIII.

53

As the despatch of lord Castlereagh was communicated by you to me, in my official character, to be shown to the President, and was shown to him accordingly; and as the despatch itself expressly authorized such a communication to this government, I cannot conceive in what sense such a proceeding could be considered confidential, or how it could be understood, that the Executive was to receive one communication for itself, and transmit to Congress another, liable, in the opinion of the Executive, to a different or doubtful construction. I cannot but persuade myself, sir, that on a reconsideration of the subject, you will perceive that there can be no impropriety in a compliance with the request contained in my letter of yesterday. Should I be mistaken in this expectation, I flatter myself that you will see the propriety of freeing your own communication from all ambiguity and liability to misconstruction. With a view to this, permit me to inquire whether the passage in your letter, stating the condition on which your government always avowed its readiness to rescind the orders in council, namely, as soon as France rescinded, absolutely and unconditionally, her decrees, includes in its meaning, that the decrees must be rescinded in relation to other neutral nations, as well as to the United States, previous to a repeal of the orders in council in relation to the United States?

I have the honour to be, &c. &c. &c.

JAMES MONROE.

Aug. J. Foster, &c. &c. &c.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.

JUNE 8, 1812.

I LAY before Congress copies of letters which have passed between the Secretary of State and the envoy extraordinary and minister plenipotentiary of Great Britain.

JAMES MADISON.

Mr. Foster to Mr. Monroe. Washington, June 1, 1812.

SIR,—I have the honour to acknowledge the receipt of your letter of the 30th ult. in reply to my note of April 15, relating to a seaman who had been encouraged to desert from his majesty's schooner *Gleaner*, by certain of the inhabitants of the city of Annapolis, and containing an offer, which I shall always be very happy to repeat, of using my best exertions to procure the discharge of such seamen as have been impressed on board his majesty's ships and can be legally claimed by the government of the United States.

The circumstances which attended the instance mentioned in my former letter of April 5th, when several seamen of the same vessel (the *Gleaner*) were, under the very eyes of their officer, and in a manner exceedingly insulting to his feelings, assailed by the endeavours of the same people to engage them to desert, is not adverted to in your letter; but I suppose I am to conclude, from the tenour of it, that no remedy can be applied in such cases by the constituted authorities of the country, which is very much to be regretted, as it leaves the commanders of ships of war who may have despatches to convey on shore in American ports continually exposed to have their boat's crews seduced from them with impunity, and tends to shew, more than ever, the disagreeable necessity under which they are of endeavouring to recover them from on board of the merchant ships, in which such seamen afterwards engage themselves.

I do not pretend, sir, to justify the captain of the British ship of war who refused to deliver the American deserter, mentioned in your letter, not knowing the circumstances under which he acted.

It will no doubt however occur to you, that if you could state a single instance where crowds have collected round an American officer on his landing in England, with a view to insult him and entice his men to abandon him, as is too often the practice in the United States, such an instance would be more directly in point.

I have now, sir, the honour to lay before you, by order of his royal highness the prince regent, the enclosed papers (Nos. 1, 2, 3, 4, 5,) relating to English seamen who

have been detained, against their will, on board of certain ships of war of the United States, which have of late visited Great Britain; and to express his royal highness' sincere belief, that these several sources of complaint have originated without the concurrence or participation of a state with which he is so anxious to preserve an amicable intercourse, as well as his conviction that the government of America has only to be informed of the fact to take prompt and satisfactory measures for the correction of the practice.

The American government will perceive, from this friendly communication, that it is not on this side of the water alone that the inconvenience necessarily resulting from the similarity of habits, language and manners, between the inhabitants of the two countries, is productive of subjects of complaint and regret. These are, however, at the same time, natural and strong inducements for a conformity of interests, and most particularly for a readiness to give and receive mutual explanations upon all subjects of difference.

I have it in charge to repeat to you, sir, for the information of your government, that the government of his royal highness the prince regent will continue to give the most positive orders against the detention of American citizens on board his majesty's ships; and that no difficulties, beyond what are requisite for clearly ascertaining the national character of individuals, whose cases are brought before the lords commissioners of the admiralty, will be interposed to prevent or delay their immediate discharge.

The earl of Liverpool, while he held the office of his majesty's secretary of state for foreign affairs ad interim, was commanded to make known the case of William Bowman, stated by the affidavit of his wife to be forcibly detained on board the United States' ship *Hornet*. The departure of this vessel precluded Mr. Russell from making the necessary representation to the commanding officer of the *Hornet*. As, however, Mr. Russell will have probably stated the circumstances of the case to this government, I am in hopes there will be no difficulty in obtaining his release.

Of the papers enclosed, those marked No. 1, consist of a copy of a letter from admiral sir Roger Curtis, commander in chief at Portsmouth, to Mr. Croker, the secre-

tary to the admiralty, enclosing a copy of the deposition upon oath of Charles Davis, an Irishman by birth, who was lately serving on board the United States frigate Constitution under the name of Thomas Hollands; and of a letter from captain Hall, of his majesty's ship Royal William, to admiral sir Roger Curtis, giving an account of the same Charles Davis, and of his escape from the Constitution frigate.

No. 2, contains the copy of a letter from captain Hall to sir Roger Curtis, transmitting a statement of the names and descriptions of twenty-eight British seamen on board the Constitution and Wasp.

No. 3, contains a copy of a letter from sir Roger Curtis to Mr. Croker, stating the real name and birth-place of William Smith, who ran away from the United States' frigate Constitution, and who proves to be a native of England, and whose name is John Taylor.

No. 4, contains the copy of another letter from sir Roger Curtis to Mr. Croker, transmitting the affidavits of George Warren and Daniel Murphy, British seamen who ran away from the Constitution and Hornet; and of the wife of William Bowman, who is alluded to above.

And No. 5, contains the deposition upon oath of John Taylor, mentioned in No. 3.

The correspondence between the earl of Liverpool and Mr. Russell, on the subject of Bowman, I do not enclose, concluding that Mr. Russell will have already transmitted copies of it to his government. You will, however, find in No. 4, the statement of the circumstances attending Bowman's forcible detention.

I have the honour, &c. &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster. Department of State, June 8, 1812.

SIR,—I have had the honour to receive your letter of June 1st, with the papers enclosed, relating to several British seamen who are stated to have entered into the naval service of the United States.

Without repeating what I had the honour to state to you in a personal interview respecting the deserter from the

Gleaner, and the conduct of the armed party from that vessel who pursued him some distance into the country; I shall confine my remarks to your complaint of the detention of British seamen in American vessels, twenty-eight of whom are said to have been on board the Constitution. Although the fact cannot be admitted on the evidence produced, because it is contrary to the laws of the United States, yet it will be inquired into. It is also possible that the seamen so detained, admitting the fact of their detention, may have become legally American citizens, in which case they must be protected as such. The government of the United States can make no distinction between native and naturalized citizens, as has been already remarked to you. I repeat also, that your government cannot object to this rule, because a British statute naturalizes, *ipso facto*, all alien seamen who shall have been two years on board a British ship of war, and considers them, equally with natives, within the allegiance, and entitled to the protection of Great Britain.

The principal object of your letter seems to be, to find some analogy between the American practice with respect to seamen, and the British practice, and to deduce from the former a justification of the latter. Permit me to note the difference, or rather the contrast between them.

The regulations of the United States prohibit the enlistment of aliens into their vessels of war. No such regulations exist on the side of Great Britain.

Enlistments, by force or impressment, are contrary to the laws of the United States. This mode of procuring crews for publick ships is not only practised by Great Britain within her legal jurisdiction, but is extended to foreign vessels on the high seas, with abuses which aggravate the outrage to the nations to whom the vessels belong.

Most of the states composing our Union have enacted laws providing for the restoration of seamen abandoning the service of merchant vessels, to which they were bound by voluntary engagement. If no provision has been made for the surrender of deserters from publick ships, it is because such deserters, although in many instances forced into the service, would be deemed malefactors and punishable as such; and it is not the practice of any country, particularly of Great Britain, to surrender malefactors

without a stipulation, which is always reciprocal. In Great Britain, we know from experience, that no provision exists for restoring American seamen to our merchant vessels, even to the fulfilment of their voluntary engagements; and if deserters from American ships of war are ever restored, it is by the courtesy, not the legal duty, or perhaps authority, of British naval commanders, and from the policy of recommending a practice, which if mutual, must be evidently in favour of the British service, the desertion from it being so common, in comparison with that from the service of the United States.

You observe that your government has charged you to state, that it will continue to give the most positive orders against the detention of American citizens on board British ships of war. If those orders were to prohibit the impressment of seamen from American vessels at sea, the great source of the evil, they would have been a welcome proof of its disposition to do justice and promote a good understanding between the two countries. Nothing short of this can be an adequate remedy; and the United States are known to be ready to substitute to the practice the most liberal arrangements on the subject. But, suppose the orders to be given as signified, and in the latitude and form promising most efficacy, how could they restore that portion of the thousands of our citizens who have been impressed or passed into ships stationed or cruising in remote parts of the globe? But it is signified only that your government will continue to give orders against the detention of American citizens on board British ships of war. It follows that they are to be detained as heretofore, until formal proof can be produced to the British admiralty, in each particular instance, that the seaman is a native citizen of the United States, the difficulty and delay in doing which are too obvious to need explanation. Nor is this the only cause of complaint. When such proof has been produced to the British admiralty, a direct refusal is made to the discharge of the seaman, if he has resided in Great Britain, shall have married there, or shall have accepted the bounty given to seamen voluntarily entering the service, although for the most part the American seamen, after having been forced into the service, have accepted the bounty either to relieve their wants, or otherwise to alleviate their condition. I omit other causes

of detention which might be mentioned. Add to the whole, that it is not sufficient to prove, that the seamen taken from American vessels are not subjects to Great Britain, nor the subjects of her enemy. It has been the invariable practice of the British cruisers to include in their impressments from American vessels the citizens and subjects of every neutral nation, even where it was known that they were such; and no instance, it is believed, can be given, of the success of an application for the restoration of such neutral aliens to the service of the United States.

These observations cannot fail, as I presume, to satisfy you, sir, how little ground your government has for the complaints stated in your letter, and how much the United States have for those they have so long and so strenuously, but at the same time, so ineffectually presented, in behalf of their injured mariners.

I have the honour to be, &c.

JAMES MONROE.

Mr. Foster to Mr. Monroe. Washington, June 4, 1812.

SIR,—Since I had the honour of seeing you at your office yesterday, I have perceived an article in the public prints, stated to be extracted from an English newspaper, and purporting to be an official declaration of his royal highness the prince regent, that the orders in council will be, and are absolutely revoked from the period when the Berlin and Milan decrees shall, by some authentick act of the French government, publicly promulgated, be expressly and unconditionally repealed. A considerable time has now elapsed since by order of my government I had the honour of urging to you the expediency of procuring such an authentick act from the French government, and in all probability the above declaration may have been issued in the confident expectation that the government of the United States would have been able to produce it ere this.

At all events, sir, considering the important nature of the above mentioned article and the probability that I shall have soon to be the organ of some official communication to the American government in relation to it, I cannot but

trust that no measure will meanwhile be adopted by the Congress, which would defeat the endeavour of procuring a complete reconciliation between our two countries.

Should any embarrassments arise in consequence of the declaration on the subject of the proposed revocation of the orders in council, above alluded to, resting at present upon a mere statement in the newspapers, it will no doubt occur to your recollection, that on the enactment of those orders a measure was taken by Congress for the purpose of meeting them when they were as yet known but through the publick prints.

I have the honour to be, &c. &c.

AUG. J. FOSTER.

Mr. Foster to Mr. Monroe. Washington, June 4, 1812.

SIR,—I must rely upon your candour to feel for the embarrassment into which your note of this day has thrown me.

Willing to comply with the request contained in it, I yet cannot but be sensible that in making any portion of a despatch from his majesty's secretary of state to me the subject of a correspondence between us, I should not be justified to my own government. I believe there is no example of a correspondence of such a nature, and I should be very loth to establish the precedent.

When I had the honour to make the communication of lord Castlereagh's despatch to you, in consequence of its being left to my own discretion to do so, I did it because I had reason to think from the number of my letters which then remained unanswered at your office, such a communication, if made through a note, might have shared the fate of the rest. You will recollect that it was at your own request that I acceded to the despatch being communicated to the President; and that it was also at your instance, as being the only regular way in which the subject could come before the American government, that I determined to write to you a note founded upon it. You were aware at the latter end of last week, that such was my determination, which I repeated to you through Mr. Graham, who called upon me on the 30th ult. to ask me when I contemplated sending it to your office. The note must

have reached you and been read before any message could have been sent from the Executive to Congress.

I cannot, sir, consider my note as liable to the charge of ambiguity which you now impute to it. The abandonment of our most important maritime rights is more extensively than ever connected by France with the demand of a repeal of our orders in council, and while you are entirely silent as to how far America concurs with her on this point of vital interest to Great Britain, without even a prospect of a reply from you to our just complaints, as expressed in my note on the coincidence of the attitude taken by America with the hostile system of France, I cannot but be aware of the difficulties to which I should expose myself in entering into an explanation on any insulated passage in it. I might, perhaps, by continued silence on your part, never afterwards have an opportunity of making further explanation; and you are well aware how frequently points taken unconnected with what precedes or follows them, are liable to misconstruction.

But, sir, a reason, paramount to every other, for my not committing myself to an explanation on any single topic, without the discussion between us were to be continued, is the publication of the highly important declaration of his royal highness the prince regent, to which I had the honour to allude in my note to you of this morning. You will there find stated, in as explicit and authentick a manner as language can convey, the grounds upon which his majesty's orders in council will be revoked. I cannot, it is true, as yet, refer you officially to this document, but I may now be in the expectation of receiving it in a formal shape within a very few days, and together with it every explanation possible which you may require.

I have the honour, &c.

AUG. J. FOSTER.

Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster. Department of State, June 6, 1812.

SIR,—I have had the honour to receive your letter of the 4th instant. The receipt of that of May 30th, has already been acknowledged.

As these letters relate to the same subject, the orders in council, I shall take both into view, in this reply.

I am not disposed to make any unnecessary difficulty, on account of the informality of the document alluded to in the last letter. If the declaration of the prince regent was such as to afford the satisfaction desired, it would be received, in any form entitled to credit, with great interest, as a token of just and friendly sentiments in your government towards the United States. But nothing is seen in that act, of the character which you impute to it. Without removing a single objection to the principle on which the orders in council were issued, and have been maintained, it affords a complete justification of the demand heretofore made on your government, for their repeal.

The British government has complained that the United States demanded the repeal of the orders in council on a conditional repeal of the French decrees, although the French condition required nothing of Great Britain which she ought not to have consented to ; and was, moreover, a condition subsequent, and not precedent ; and it now proposes to repeal the orders in council conditionally, also, with this difference, that the condition on which their repeal is to be made, is a condition precedent and not subsequent, and is likewise one which Great Britain has no right to claim.

This condition requires that the French decrees shall be absolutely and unconditionally repealed ; that is, that they shall be repealed according to explanations given, not only as they related to the United States, but as to all other neutral nations ; and also, as they prohibited a commerce in British manufactures, with the enemies of Great Britain.

So far as the French decrees violated the neutral commerce of the United States, we had a right to demand a repeal of them. To that extent we did demand their repeal, and obtained it. The repeal was declared by an authentic and formal act of the French government, and communicated to this government by the minister plenipotentiary of the United States at Paris, and to the British government by their minister plenipotentiary at London ; and has, moreover, been officially published within the United States. The authenticity of the repeal was placed beyond all controversy, and the official manner in

which it was communicated to your government ought to have been satisfactory to it. A general repeal of the French decrees in favour of all neutral nations, and of such parts of them as prohibited a trade with France and the countries under her control, in British manufactures, the United States have not demanded, because they had no right to demand it.

The United States have required of Great Britain no more than they required of France; namely, that her unlawful edicts should be repealed so far as they related to us. To a compliance with this demand, your government has prescribed conditions, the mere recital of which is sufficient to show their injustice. The United States can never suffer their rights to be violated by Great Britain, because the commerce of her enemy is not regulated to suit her interest and policy.

If the duke of Bassano's report to the conservative senate of France, published in a French newspaper, be sufficient evidence that the French decrees are now in force, it is not perceived on what ground the high evidence which has been afforded of their repeal could have been resisted.

It is further made a condition of the proposed repeal, by the declaration of the prince regent, that it shall take effect at a future uncertain day, and that the orders in council should be again in force, on a contingency of which the British government is to be the sole judge. If this were a ground on which the United States could call upon France to repeal her decrees, in case they were still in force as to them, surely the French repeal, to take effect on a future specified day, and whose revival was not provided for on any contingency whatever, was a ground on which their call on Great Britain to repeal her orders in council in respect to the United States, ought not to have been resisted.

In reply to your insinuation, that the demand made on your government to repeal its edicts, which violate the neutral rights of the United States, is made in concert with France, to obtain from Great Britain an abandonment of her maritime rights, it is sufficient to refer you to documents which have been long before the publick, and particularly to the letter of Mr. Pinkney to the marquis Wellesley, of January 14, 1811, protesting in the most pointed

manner against looking to any other source for the opinions and principles of the United States, than to the United States themselves. Let me repeat, with respect to the orders in council, that all we demand is, that they cease to violate the neutral rights of the United States, which they have long violated, and still violate on the high seas. Should they be continued as to France in any form which may not violate these rights, or as to any other neutral nation to which they may be applicable, it would be for such nation, and not for the United States, to contend against them.

The report of the French minister on which this declaration of your government is founded, affords no proof that the French government intended by it to violate its engagement to the United States, as to the repeal of the decrees. It evidently refers to the continental system, by the means relied on to enforce it. The armies of France can be of no avail either in the support or violation of maritime rights. This construction is the more justifiable from the consideration that it is supported by corresponding acts of the French government, continued from the time of the repeal, and by communications to the minister plenipotentiary of the United States at Paris, to the date of that report.

I beg you, sir, to be assured that it is painful to me, to have imposed the least embarrassment on you, by the correspondence on the difference between the tenour of lord Castlereagh's letter to you, and yours founded on it to me. I continue to persuade myself, however, that you will become sensible, that with a knowledge of the extent given by your government to the conditions on which alone its orders will be repealed, and that this extent was always contemplated by your government, it was impossible for the President to be inattentive to the fact, or to withhold it from the legislative branch of the government; I have to add, that had it been proper for him so to have done, the late hour at which your note was received, not till the noon of the 1st instant, was not in time to be considered in relation to the message sent to Congress on that day.

With great respect and consideration, I have the honour to be, &c.

JAMES MONROE

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JUNE 11, 1812.

I TRANSMIT, for the information of Congress, copies of letters which have passed between the Secretary of State and the envoy extraordinary and minister plenipotentiary of Great Britain.

JAMES MADISON.

CORRESPONDENCE BETWEEN MR. MONROE AND MR. FOSTER, RELATIVE TO INDIAN HOSTILITIES.

Mr. Foster to Mr. Monroe. Washington, June 7, 1812.

SIR,—It is extremely painful to me to find that, notwithstanding the assurances which I had the honour to make to you on the authority of communications from his majesty's captain general in Canada, that his majesty's officers had not only had no hand in urging the Indian tribes to the late atrocities committed on the frontiers of the United States, but had even endeavoured, in the true spirit of friendly neighbourhood, to restrain them as far as lay in their power; such reports still continue to be circulated with revived industry, and have, in a great degree, even been countenanced by statements which were recently made in an address from a governour of one of the United States, to the citizens of that State.

To set this question at rest, I beg leave, sir, to transmit to you the enclosed copies of a letter from the late governour of Canada to his majesty's secretary of state for the war department, and the answer of lord Liverpool, which have been recently received by me, through lord Castlereagh's office, and from which you will perceive that his majesty's ministers had not only expressed their decided approbation of the conduct of the government of Canada, in using whatever influence they might possess over the Indians, to dissuade them from committing hostilities on

the citizens of the United States, but also had especially directed that those exertions should be continued.

While I assure you, sir, very frankly, that I do not believe such evidence was necessary to convince the American government of the erroneous nature of the abovementioned reports, I yet beg leave to request that this letter and its enclosures may, as early as possible, be laid before the President.

I also beg leave to add, that it is really a serious inconvenience thus to find it necessary continually to furnish fresh evidence, in order to oppose rumours which, though unsupported by the shadow of a document, or any other authority whatever than mere heresay, do yet derive a consequence from the circulation given to them under the official sanction of a state government.

I have thought it necessary to be thus explicit on this subject, on account of the odious nature of the reports in question: dreadful and horrible as they are, they would at any time suffice to excite the most violent irritation through a country, but they surely ought not to be made use of without the most clear and convincing proofs to constitute their veracity.

I have the honour, &c. &c.

AUG. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

Copy of a Letter from J. H. Craig to the Earl of Liverpool. Quebec, March 29, 1811.

MY LORD,—Under the present circumstances existing between his majesty's government, and that of the American States, I feel it to be necessary to forward to your lordship, the information that is contained in the enclosed letter and papers from lieutenant governour Gore, to which I add a copy of my answer to him on the subject. This is the first direct communication that I have had either from lieutenant governour Gore, or from any officer of the Indian department, relative to the intentions of the Indians. My private accounts, however, which, though not official, were equally to be relied on, gave me assurances of their determination to have recourse to arms, so long ago as in November; and in my wish to assist in saving

the American frontier from the horrors usually attending the first burst of an Indian war, by enabling them to take precautions against it, I communicated my accounts to Mr. Morier, and though I thought that an official communication might be extremely objectionable, I gave him, however, permission, if he did not think it improper from any circumstance of situation in which he might find himself with them, verbally to convey the information to the American government. And I have since heard from Mr. Morier that he did so. In January, I repeated to Mr. Morier that I continued to receive a confirmation of the intelligence I had before sent him, but I do not know whether he made any farther communication to the American government.

I have the honour to be, &c. &c.

J. H. CRAIG.

Copy of a Letter from Lord Liverpool to the Officer administering the Government of Lower Canada. Downing Street, July 28, 1811.

SIR,—In reference to the despatches, Nos. 37 and 39, of lieutenant governor sir James Craig, with their respective enclosures, on the subject of the hostile intentions which have been manifested by the Indians against the Americans, and of the measures which had been taken by that officer to dissuade them from a recourse to arms, I am commanded by his royal highness the prince regent to acquaint you that the conduct of sir James Craig, in this respect, has received his royal highness's entire approbation, and I am to desire that you will persevere in the attempt made by him to restrain the Indians from the commission of any act of hostility on the American frontier.

I have the honour to be, &c. &c.

LIVERPOOL.

Mr. Foster to the Secretary of State. Washington, June 8, 1812.

SIR,—Since I had the honour of writing to you yesterday, I have received some additional papers relating to

the subject mentioned in my letter, which I transmit to you enclosed. They consist of a letter from sir James Craig to lord Liverpool, enclosing the extract of a letter from lieutenant governour Gore, and of the instructions which he had given to the deputy superintendent of Indian affairs to exert himself in restraining the Indians from committing any act of hostility against the citizens of the United States.

Allow me, sir, to request that these papers may without loss of time be communicated to the President.

I have the honour, &c.

AUG. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

Quebec, May 21, 1811.

MY LORD,—In a despatch, No. 37, I thought it right to apprise your lordship of the appearance of hostile intentions towards the Americans, which had shown itself among the Indians in the upper country, as well as of the steps I had taken on the occasion.

In pursuing the same subject, I have now the honour to enclose copies of the letter I have received from lieutenant governour Gore, and of the instructions, which, in consequence of mine to him, he had given to the deputy superintendent of Indian affairs.

I have the honour to be, &c.

J. H. CRAIG.

The Earl of Liverpool, &c. &c.

Extract of a Letter from Lieutenant Governour Gore, to His Excellency Sir James Craig. York, (Upper Canada,) March 2, 1811.

"I HAVE the honour to acknowledge the receipt of your excellency's letter of the 2d of February, which reached me on the 24th.

"I lost no time in directing the deputy superintendent general of Indian affairs to instruct the officers of the Indian department to caution and restrain the Indians from committing any act of hostility on the white inhabitants in the neighbourhood. A copy of my letter to colonel Claus is herewith transmitted."

Extract of a Letter from Lieutenant Governour Gore, to Colonel Claus, Deputy Superintendent General of Indian Affairs. York Place, Feb. 26, 1811.

"IN further notice of Mr. Elliott's letters to you, it is desirable that you should desire him to be more than usually circumspect in his communications with the Indians, so as to leave no possible suspicion of favouring their projected hostilities against the United States of America. You will therefore direct him, as occasion may offer, to impress upon the Indians the certainty of eventual misfortune to themselves from any attack on the whites; to point out to them that the Americans are become so strong, that any effort on their part to prevail by arms must be vain, and that it is from such an assurance, and out of regard to their safety, comfort, and happiness, that their Great Father expressly forbids that any encouragement should be afforded to them in any warlike enterprise."

Mr. Monroe to Mr. Foster. Department of State, June 10, 1812.

SIR,—In answer to the letters of the 7th and 8th instant, which I have had the honour to receive from you, disclaiming any agency of your government in promoting the hostility of the Indians, it is my duty to communicate to you such information as has been transmitted to this government on the subject, at different periods, since the year 1807. From these documents it appears, that whatever may have been the disposition of your government, the conduct of its subordinate agents has tended to excite the hostility of those tribes towards the United States.

In estimating the comparative evidence on this subject, it is impossible not to recollect the communication lately made to this government respecting the conduct of sir James Craig in another important transaction, which it appears was approved by lord Liverpool.

I have the honour to be, &c.

JAMES MONROE.

Aug. J. Foster, &c. &c.

EXTRACTS OF LETTERS TO THE SECRETARY OF WAR.

From Captain Dunham, of the United States Army. Michilimackinac, May 24, 1807.

"THERE appears to be a very general and extensive movement among the savages in this quarter. Belts of wampum are rapidly circulating from one tribe to another, and a spirit is prevailing by no means pacifick. The enclosed *talk*, which has been industriously spread among them, needs no comment.

"THERE is certainly *mischief at the bottom*, and there can be no doubt in my mind that the object and intention of this great Maniton, or second Adam, under the pretence of restoring to the Aborigines their former independence, and to the savage character its ancient energies, is in reality to induce a general effort to rally, and to strike, somewhere, a desperate blow."

Extract from a Talk delivered at Le Maionitinong, entrance of Lake Michigan, by the Indian Chief Le Maigowis, or the Trout, May 4, 1807.

"I AM the father of the English, of the French, of the Spaniards and of the Indians. I created the first man, who was the common father of all these people as well as yourselves; and it is through him, whom I have awaked from his long sleep, that I now address you. *But the Americans I did not make; they are not my children, but the children of the evil spirit.* They grew from the scum of the great waters when it was troubled by the evil spirit, and the froth was driven into the woods by a strong east wind. They are numerous, but I hate them. My children, you must not speak of this talk to the whites; it must be hidden from them. I am now on the earth, sent by the great spirit to instruct you. Each village must send me two or more principal chiefs to represent you, that you may be taught. The bearer of this talk will point out to you the path to my wigwam. I could not come myself to Abre Crocte, because the world is changed from what it was. It is broken and leans down, and as it declines, the Chippewas and all beyond, will fall off

and die; therefore you must come to see me and be instructed. Those villages which do not listen to this talk and send me two deputies, will be cut off from the face of the earth."

From Captain Dunham of the United States' Army. Michilimackinac, August 30, 1807.

"THE cause of the hostile feelings on the part of the Indians, is principally to be attributed to the influence of foreigners trading in the country."

From Gov. William H. Harrison. Jeffersonville, (Falls of Ohio,) April 14, 1808.

"A YOUNG man from the Delaware towns came to inform me that a Pottawattimie Indian had arrived at the towns with a speech from the British in which they were informed that they (the British) were upon the point of commencing hostilities against the United States, and requesting the Delawares to join them."

From General William Clark. St. Louis, April 30, 1809.

"I HAVE the honour to enclose you a copy of a letter which confirms my suspicions of the British interference with our Indian affairs in this country."

[EXTRACT REFERRED TO ABOVE.]

"I AM at present in the fire, receiving Indian news every day. A chief of the Puant nation appears to be employed by the British to get all the nations of Indians to Detroit, to see their fathers, the British, who tell them that they pity them in their situation with the Americans, because the Americans had taken their lands and their game, that they must join and send them off from their lands. They told the savages that the Americans could not give them a blanket nor any thing good for their families.

"They said they had but one father that helped them in their misfortunes, and that they would assemble, defend their father, and keep their lands. It appears that four English subjects have been at Riviere a la Roche this winter, in disguise; they have been there to get the nations together and send them on the American frontiers. The Indians are pushed on by our enemies to take the fort of Belle-vue."

From Samuel Tupper, Indian Factor. Sandusky, June 7, 1809.

"THE conduct of British traders in introducing spirituous liquors among the Indians in this part of the country, and their determined hostility to the measures of our government, have long been subjects of complaint."

From Governour William Hull. Detroit, June 16, 1809.

"THE influence of the prophet has been great, and his advice to the Indians injurious to them and the United States. The powerful influence of the British has been exerted in a way alluring to the savage character."

From Governour Harrison. Vincennes, June 14, 1810.

"AN Iowa Indian informs me, that two years ago this summer, an agent from the British arrived at the prophet's town, and in his presence delivered the message with which he was charged: the substance of which was to urge the prophet to unite as many tribes as he could against the United States, but not to commence hostilities until they gave the signal. From this man and others of his nation, I learn that the prophet has been constantly soliciting their own and other tribes of the Mississippi to join him against the United States."

From Governour Harrison. Vincennes, July 18, 1810.

"A CONSIDERABLE number of Sacs went some time since to see the British superintendent, and on the 1st inst. fifty more passed Chicago for the same destination."

"A Miami chief who has just returned from his annual visit to Malden, after having received the accustomed donation of goods, was thus addressed by the British agent: "My son, keep your eyes fixed on me; my tomahawk is now up; be you ready, but do not strike until I give the signal."

From General William Clark. St. Louis, July 20, 1810.

"ONE hundred and fifty Sacs are on a visit to the British agent, by invitation, and a smaller party on a visit to the island of St. Joseph, in lake Huron."

From Governour W. H. Harrison. Vincennes, July 25, 1810.

"THERE can be no doubt of the designs of the prophet and the British agent of Indian affairs, to do us injury. This agent is a refugee from the neighbourhood of ———, and his implacable hatred to his native country prompted him to take part with the Indians in the battle between them and general Wayne's army. He has, ever since his appointment to the principal agency, used his utmost endeavours to excite hostilities, and the lavish manner in which he is allowed to scatter presents amongst them, shows that his government participates in his enmity, and authorizes his measures."

From Governour William Hull. Detroit, July 27, 1810.

"LARGE bodies of Indians from the westward and southward continue to visit the British post at Amherstburg, and are supplied with provisions, arms, ammunition, &c. Much more attention is paid to them than usual."

Extract from the Speech of Red Jacket, in behalf of himself and the other Deputies of the Six Nations. February, 1810.

"BROTHER,—Since you have had some disputes with the British government, their agents in Canada have not

only endeavoured to make the Indians at the westward your enemies, but they have sent a war belt amongst our warriors to poison their minds, and make them break their faith with you. At the same time we had information that the British had circulated war belts among the western Indians, and within your territory."

From John Johnson, Indian Agent. Fort Wayne, August 7, 1810.

"SINCE writing you on the 25th ultimo, about one hundred men of the Saukies have returned from the British agent, who supplied them liberally with every thing they stood in want of. The party received 47 rifles, and a number of fusils, with plenty of powder and lead. This is sending fire-brands into the Mississippi country, inasmuch as it will draw numbers of our Indians to the British side, in the hope of being treated with the same liberality."

From Gouverneur W. H. Harrison. Vincennes, February 6, 1811.

"IF the intentions of the British government are pacifick, the Indian department of Upper Canada have not been made acquainted with them, for they have very lately said every thing to the Indians who have visited them, to excite them against us."

From John Johnston. Fort Wayne, Feb. 8, 1811.

"***** has been at this place. The information derived from him is the same I have been in possession of for several years, to wit: the intrigues of the British agents and partisans in creating an influence hostile to our people and government within our territory."

From M. Irwin, Indian Factor. Chicago, May 13, 1811.

"An assemblage of the Indians is to take place on a branch of the Illinois, by the influence of the prophet: the result will be hostile in the event of a war with Great Britain."

From Governour W. H. Harrison. Vincennes, September 17, 1811.

"***** states that almost every Indian from the country above this had been, or were then gone to Malden on a visit to the British agent. We shall probably gain our destined point at the moment of their return. If then the British agents are really endeavouring to instigate the Indians to make war upon us, we shall be in their neighbourhood at the very moment when the impressions which have been made against us are most active in the minds of the savages.

"***** succeeded in getting the chiefs together at Fort Wayne, though he found them all preparing to go to Malden. The result of the council discovered that the whole tribes (including the Weas and Eel rivers, for they are all Miamies) were about equally divided in favour of the prophet and the United States. Lapoussier, the Wea chief, whom I before mentioned to you as being seduced by the prophet, was repeatedly asked by ***** what land it was that he was determined to defend with his blood; whether it was that which was ceded by the late treaty or not, but he would give no answer.

"***** reports that all the Indians of the Wabash have been, or now are, on a visit to the British agents at Malden. He has never known one fourth as many goods given to the Indians as they are now distributing. He examined the share of one man (not a chief) and found that he had received an elegant rifle, twenty-five pounds of powder, fifty pounds of lead, three blankets, three strouds of cloth, ten shirts and several other articles. He says every Indian is furnished with a gun (either rifle or fusil) and an abundance of ammunition. A trader of this country was lately in the king's stores at Malden, and was told that the quantity of goods for the Indian department, which had been

sent out this year, exceeded that of common years by 20,000 pounds sterling. It is impossible to ascribe this profusion to any other motive than that of instigating the Indians to take up the tomahawk. It cannot be to secure their trade; for all the peltries collected on the waters of the Wabash in one year, if sold in the London market, would not pay the freight of the goods which have been given to the Indians.

"I am decidedly of opinion that the tendency of the British measures is hostility to us."

From Governour Willie Blount. Nashville, September 11, 1811.

"THERE is in this place a very noted chief of the Chickasaws, a man of truth, who wishes the President should be informed that there is a combination of the northern Indians, promoted by the English, to unite in falling on the frontier settlements, and are inviting the southern tribes to join them."

From Governour Ninian Edwards. Cahokia, St. Clair County, Illinois Territory, April 24, 1812.

"THE opinion of the celebrated British trader, Dixon, is, that in the event of a British war, all the Indians will be opposed to us, and he hopes to engage them in hostility by making peace between the Sioux and Chipewas, two very large nations, and getting them to declare war against us."

Extract of a Letter from His Excellency Ninian Edwards, Governour of the Illinois Territory, to the Secretary of War. Illinois Territory, January 25, 1812.

"MANY of those Indians certainly contemplate joining the British. They are in the habit of visiting Fort Malden annually; and as soon as they are prepared for their departure thither, they will, (as I believe they have already declared) make inroads upon our settlements, as well to take scalps as to steal horses."

Extract of a Letter from General Wm. Clark, to the Secretary of War. St. Louis, Feb. 13, 1812.

"If possession was taken of a point about the mouth of Fox river, where it enters into Green Bay, communications would be cut off between the traders and Indians on the Mississippi below Prairie du Chien, and the British trading houses on the lakes. Smuggling might be prevented through that channel. Mr. Dickson, and those British traders, who are also *agents*, who have smuggled an immense quantity of goods through that channel this year, and now in the Mississippi, could be caught on their return as they go out in the spring. This description of people grasp at every means in their power to wean the affections of the Indians from any thing that is American; having it in their power to make large presents to the Indians, the most of whom are to be bought; and by this means create great difficulty wherever they have an influence."

Extracts of a Letter from John Shaw, Esquire, Indian Agent, to the Secretary of War. Fort Wayne, 3d Month 10th, 1812.

"It appears that the hostile disposition of the Indians confederated under the Shawanee prophet, that so recently manifested itself in the conflict on the Wabash, is not yet changed. By every thing that I am able to learn, they are secretly plotting to strike an effective blow on our frontier; and it is said that they have been this winter invited by the British agent, at fort Malden, to pay him a visit; and I believe it is a fact, that a considerable number of them have recently gone to that place with a view of procuring ammunition."

"A speech is also said to have been recently sent to Winnemac, a Pottawattamie chief, from Elliot, the British agent; but to what purpose I have not yet been able to learn."

Extracts of a Letter from John Shaw, Esq. Indian Agent, to the Secretary of War. Fort Wayne, 3d Month 1st, 1812.

"It has been reported by a Miami Indian who was hunting a few miles from this, that twenty-four Indians of the Shawanee prophet's band, composed of Winabagoes, Kickapoos and Shawanees, passed his camp about six days ago, on their way to Sandusky, for a quantity of powder and lead, which they said was to be sent them from Canada."

"It also appears from the statements of a gentleman from Detroit, that the Morpock, (*Pottawattamie chief*) with a small party of Indians, has been for a considerable time past, encamped on the river Rasin, and constantly getting provisions from the British at fort Malden, and that it is firmly believed that he is waiting for a signal from Elliot, the British agent, to commence hostilities on our frontier."

Extracts of a Letter from Robert Forsyth, Esq. to Captain Rhea, commanding at Fort Wayne. Fort Wayne, March 10, 1812.

"I HAVE no doubt but those Indians that past this post some time ago, are a deputation sent to the British garrison for the purpose of procuring ammunition."

"The Manpock, a Pottawattamie chief, has wintered at river Huron, about twenty miles from the garrison of Amherstburg, and has drawn provisions and ammunition during the whole winter. He has about twenty men with him."

Extract of a Letter from B. F. Stickney, Esq. Indian Agent, to His Excellency W. H. Harrison. Fort Wayne, April 18, 1812.

"MR. SHAW has informed you that twenty-four of the prophet's band had passed this place in the last of February, for fort Malden, to receive ammunition which was promised to be ready for them. They returned on the fourth instant, with as much gun powder, lead, and new fusils, as they could carry."

DOCUMENTS RELATIVE TO A SEAMAN CLAIMED BY THE BRITISH GOVERNMENT.

Mr. Monroe to Mr. Foster. Department of State, June 10, 1812.

SIR,—I have the honour to transmit to you for the information of your government, the enclosed papers, (No. 1 and 2) in relation to William Helby, alias William Bowman, a sailor belonging to the United States sloop of war the *Hornet*, for whom Lord Castlereagh, on the 20th of February, when his lordship supposed that vessel was in a British port, informed Mr. Russell that a writ of habeas corpus would be issued and enforced by the legal authorities of Great Britain.

I have the honour, &c. &c.

JAMES MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

Navy Department, June 8, 1812.

SIR,—Having seen the deposition of Elizabeth E. Bowman, in the case of William Bowman, alias William Helby, alias William Elby, said to have been compelled by force to enter on board the *Hornet*, I wrote to captain Lawrence, commander of the *Hornet*, for information on the subject, and have received from him the paper which I have the honour of transmitting herewith.

It can be scarcely necessary for me to remark that neither the laws nor usages of our country would sanction any compulsory means to induce persons to enter the navy of the United States.

I am, with great respect, &c.

PAUL HAMILTON.

The Honourable the Secretary of State.

United States' ship Hornet, New York, June 2, 1812.

I do hereby certify, that in consequence of not being able to get a birth on board a merchant ship, and being absolutely in want of bread, I was induced to enter as a seaman on board the *Hornet*, and for that purpose repair-

ed to her rendezvous, then opened in Philadelphia, and voluntarily entered with lieutenant Cassin, on the 3d July, 1811, to serve the United States of America honestly and faithfully for the term of two years, unless sooner discharged. At the time I shipped, I declare that I was perfectly sober, and that as soon as I had received my three months advance I went on board the gun-boat then lying off the navy yard, for the purpose of receiving the men shipped for the Hornet, accompanied by the officer commanding her, and the landlord of the rendezvous; and I solemnly declare that no force whatever was used to compel me to enter the service, or to get me on board the gun boat.

WILLIAM HELBY.

Witnesses

JOSEPH SMOOT, Midshipman United States Navy.
JACOB M. JACOBS, Captain's Clerk.

REPORT OF THE COMMITTEE ON INDIAN AFFAIRS, RELATIVE TO EXCITEMENTS, ON THE PART OF BRITISH SUBJECTS, OF THE INDIANS, TO COMMIT HOSTILITY AGAINST THE UNITED STATES, AND TO THE EVIDENCE OF SUCH HOSTILITY PRIOR TO THE LATE CAMPAIGN ON THE WABASH. JUNE 13, 1812.

REPORT.

THE committee, to whom was referred so much of the President's message as relates to Indian affairs, report:

That the attention of the committee has been directed to the following inquiries:

- 1st. Whether any, and what agency the subjects of the British government may have had in exciting the Indians on the western frontier, to hostilities against the United States.
- 2d. The evidence of such hostility, on the part of the Indian tribes, prior to the late campaign on the Wabash.
- 3d. The orders by which the campaign was authorized and carried on.

The committee have obtained all the evidence within their power relative to these several inquiries. The documents accompanying the President's message to Congress, of the 11th instant, contain all and some additional evidence to what had been obtained by the committee, in relation to the first inquiry. Those documents afford evidence as conclusive as the nature of the case can well be supposed to admit of, that the supply of Indian goods furnished at fort Malden, and distributed during the last year by the British agents, in Upper Canada, to the Indian tribes, were more abundant than usual; and it is difficult to account for this extraordinary liberality, on any other ground than that of an intention to attach the Indians to the British cause, in the event of a war with the United States.

That the Indian tribes should put to hazard the large annuities which they have been so long in the habit of receiving from the United States; that they should relinquish supplies so necessary to their comfort, if not to their existence, by a hostile conduct, in the absence of all other evidence, is not the least convincing proof that some agency has been employed to stimulate the savages to hostilities; and having pursued a course of conduct which must lead to a forfeiture of those advantages, renders it at least probable that they had assurances of receiving an equivalent elsewhere.

Additional presents, consisting of arms and ammunition, given at a time when there is evidence that the British were apprized of the hostile disposition of the Indians, accompanied with the speeches addressed to them, exciting disaffection, are of too decisive a character to leave doubt on the subject.

With regard to the second subject of inquiry, the committee are of opinion that the evidence accompanying this report, together with the official communication made to the Executive, by the British government, affords such evidence of the hostile views and intentions of the Indians, as to render it the duty of the President of the United States to use the necessary means of protecting the frontiers from the attack with which they were threatened. Accordingly, in pursuance of the provisions of the act of Congress, entitled "An act for calling forth the militia to execute the laws of the Union, suppress insurrections,

and repel invasions," the Executive ordered the fourth regiment of infantry, with one company of riflemen, under the command of colonel Boyd, from Pittsburgh to Vincennes, subject to the farther orders of governor Harrison, who was authorized, with this force and such additional number of companies from the militia as should be deemed necessary, to establish a new post on the Wabash, and to march against and disperse the armed combination under the prophet.

These considerations, together with the documents, are respectfully submitted.

War Department, Dec. 19, 1811.

SIR,—In answer to the call of the honourable committee of the House of Representatives, contained in your letter of the 25th ultimo, for "all evidence tending to show what agency the subjects of his Britannick majesty may have had in exciting the Indians on the western frontier to hostility with the United States; the evidence of hostility towards the United States on the part of the Shawanee prophet and his tribe, and which it is presumed gave rise to the expedition under the command of governor Harrison; and the orders or authority vested in governor Harrison by the government of the United States, under which the expedition is carried on;"

I have the honour to state, that the information received by this department, relative to the subjects of inquiry, is contained in the correspondence of the governors of the Michigan, Indiana, and Illinois territories, and of other officers and agents of government, on the northern and western frontier, extracts from which, embracing the objects of inquiry of the honourable committee, together with the memorials of the inhabitants of the Indiana and Illinois territories, are herewith transmitted.

On the information and representation of facts therein contained, the fourth regiment of infantry, with one company of riflemen, under the command of colonel Boyd, were ordered from Pittsburgh to Vincennes, subject to the further orders of governor Harrison, who was authorized, with this force and such additional number of companies from the militia as should be deemed necessary, to estab-

lish a new post on the Wabash, and to march against, and disperse, the armed combination under the prophet.
I have the honour to be, &c.

W. EUSTIS.

Hon. Samuel M'Kee,

Chairman of a Committee H. of Representatives.

INDEX

TO THE EXTRACTS OF LETTERS ADDRESSED TO THE WAR DEPARTMENT.

Michilimackinac,	24 May, 1807,	captain Dunham, of the U. S. army.
Ditto,	30 Aug. 1807,	Dunham and others.
Jeffersonville,		
Falls of Ohio,	14 April, 1808,	governour Harrison.
Vincennes,	19 May, 1808,	ditto.
St. Louis,	5 April, 1809,	general Clark.
Fort Wayne,	8 April, 1809,	W. Wells.
St. Louis,	30 April, 1809,	general Clark, with an enclosure from Boilvin.
Vincennes,	3 May, 1809,	governour Harrison.
Sandusky,	7 June, 1809,	S. Tupper.
Detroit,	16 June, 1809,	governour Hull.
Vincennes,	14 June, 1810,	Harrison.
Ditto,	26 June, 1810,	ditto.
Ditto,	11 July, 1810,	ditto.
Ditto,	18 July, 1810,	ditto.
St. Louis,	20 July, 1810,	general Clark.
Vincennes,	25 July, 1810,	governour Harrison.
Detroit,	27 July, 1810,	Hull.
Fort Wayne,	7 Aug. 1810,	captain Johnston.
Vincennes,	1 Aug. 1810,	governour Harrison.
St. Louis,	12 Sept. 1810,	general Clark.
Vincennes,	6 Feb. 1811,	governour Harrison.
Fort Wayne,	8 Feb. 1811,	captain Johnston.
Chicago,	13 May, 1811,	W. Irvine.
St. Louis,	24 May, 1811,	general Clark.
Chicago,	2 June, 1811,	Saliene, Indian Interp.
Vincennes,	19 June, 1811,	governour Harrison.
Illinois territory,	20 June, 1811,	governour Edwards.
Old Station,	21 June, 1811,	W. Whiteside.

Illinois territory,	27 June, 1811,	governour Edwards.	
Vincennes,	3 July, 1811,	Harrison.	
St. Louis,	3 July, 1811,	general Clark.	
Illinois territory,	6 July, 1811,	governour Edwards.	
Vincennes,	10 July, 1811,	Harrison.	
Belle Fontaine,	22 July, 1811,	colonel Bissell.	
Vincennes,	6 Aug. 1811,	governour Harrison.	
Illinois territory,	11 Aug. 1811,	Edwards.	
Fort Wayne,	18 Aug. 1811,	J. Shaw.	
Nashville,	10 Sept. 1811,	Gordon,	{ Enclosed by Gov. Blount, 16 Sept. 1811.
Ditto,	9 Sept. 1811,	Robertson,	
Vincennes,	17 Sept. 1811,	governour Harrison.	
Ditto,	25 Sept. 1811,	Ditto.	
Ditto,	6 Oct. 1811,	Ditto.	
On the Wabash,	13 Oct. 1811,	Ditto.	
Ditto,	28 Oct. 1811,	Ditto.	
Vermillion river,	2 Nov. 1811,	Ditto.	
Chickasaw,	29 Nov. 1811,	J. Neilly.	
St. Louis,	23 Nov. 1811,	general Clark.	

EXTRACTS OF LETTERS ADDRESSED TO THE WAR DEPARTMENT.

Michilimackinac, May 24, 1807.

THERE appears to be a very general and extensive movement among the savages in this quarter. Belts of wampum are rapidly circulating from one tribe to another, and a spirit is prevailing by no means pacifick. The enclosed *talk*, which has been industriously spread among them, needs no comment.

There is certainly *mischief at the bottom*, and there can be no doubt, in my mind, but that the object and intention of this great Maniton, or second Adam, under the pretence of restoring to the aborigines their former independence, and to the savage character its ancient energies, is, in reality, to induce a general effort to *rally*, and to strike somewhere, a desperate blow. Extract from a talk delivered at *Le Maiouitinong*, entrance of lake Michigan, by the Indian chief Le Maiquois, or the *Trout*, May 4th, 1807, as coming from the first man whom God created; said to be now in the Shawanese country, addressed to all the Indian tribes (referred to above.) "I am the father of

the English, of the French, of the Spaniards, and of the Indians. I created the first man, who was the common father of all these people, as well as yourselves ; and it is through him, whom I have awaked from his long sleep, that I now address you. *But the Americans I did not make. They are not my children, but the children of the evil spirit.* They grew from the scum of the great water, when it was troubled by the evil spirit, and the froth was driven into the woods by a strong east wind.* They are numerous, but I hate them.

My children—You must not speak of this *talk* to the whites. *It must be hidden from them.* I am now on the earth, sent by the Great Spirit to instruct you. Each village must send me two or more principal chiefs to represent you, that you may be taught. The bearer of this talk will point out to you the path to my wigwam. I could not come myself to Abre Croche, because the world is changed from what it was. It is broken and leans down, and as it declines, the Chippewas, and all beyond, will fall off and die. Therefore, you must come to see me and be instructed. Those villages which do not listen to this talk, and send me two deputies, will be cut off from the face of the earth!"

Michilimackinac, August 30, 1807.

THE cause of the hostile feelings on the part of the Indians, is principally to be attributed to the influence of foreigners trading in the country.

Jeffersonville, Falls of Ohio, April 14, 1808.

A YOUNG man from the Delaware towns came to inform me that a Potawatimie Indian had arrived at the towns with a speech from the British, in which they were informed that they (the British) were upon the point of commencing hostilities against the United States, and requesting the Delawares to join them.

Vincennes, May 19, 1808.

THE prophet has selected a spot on the upper part of the Wabash for his future and permanent residence, and has engaged a considerable number of Potawatimies, Ottawas, Chippawas, and other northern Indians to settle there, under his auspices. An intelligent man who passed (a few weeks ago) through some of the villages of the Potawatimies that are under the prophet's influence, says, that they are constantly engaged in what they term religious duties; but that their prayers are always succeeded by, or intermixed with, warlike sports.

This combination of religious and warlike exercises, and the choice of weapons of their own manufacture, sufficiently indicates the designs of their author.

St. Louis, April 5, 1809.

THE Indian prophets have been industriously employed, the latter part of the winter and spring, privately counselling with, and attempting to seduce the Kickapoos, Saukeys, and other bands of Indians residing on the Mississippi and Illinois rivers, to *war* against the frontiers of this country.

Fort Wayne, April 8, 1809.

THE Indians appear to be agitated respecting the conduct, and *as they say*, the intentions of the Shawanee prophet. The Chippawas, Ottawas and Pottawatimies are hurrying away from him, and say that their reason for doing so, is because he has told them to receive the tomahawk from him, and destroy all the white people at Vincennes and Ohio, as low down as the mouth of the Ohio, and as high up as Cincinnati; that the Great Spirit had directed that they should do so, at the same same threatening them with destruction if they refused to comply with what he proposed.

St. Louis, April 30, 1809.

I HAVE the honour to enclose you a copy of a letter which confirms my suspicions of the British interference with our Indian affairs in this country. (Extract from the enclosed letter :)—"I am at present in the fire, receiving Indian news every day. A chief of the Puant nation appears to be employed by the British to get all the nations of Indians to Detroit, to see their fathers the British, who tell them that they pity them in their situation with the Americans, because the Americans had taken their lands and their game, that they must *join* and send them off from their lands; they told the savages that the Americans could not give them a blanket, nor any thing good for their families.

"They said they had but one father that had helped them in their misfortunes, and that they would assemble, defend their father, and keep their lands." It appears that four English subjects have been at Reviere a la Roche this winter, in disguise; they have been there to get the nations together, and send them on the American frontiers. Other Indians are pushed on by our enemies to take the fort of Belle Vue.

Vincennes, May 3, 1809.

—— is decidedly of opinion that the prophet will attack our settlements. His opinion is formed from a variety of circumstances, but principally from a communication made to Mr. ——, by two chiefs, his friends, the substance of which was, that the prophet and his followers, had determined to commence hostilities as soon as they could be prepared, and to "sweep all the white people from the Wabash and White river, after which they intended to attack the Miamis."

About eight days ago he (the prophet) had with him three hundred and fifty warriors, well armed with rifles, and tolerably supplied with ammunition; they have also bows and arrows, war clubs and a kind of spear.

Sanduskey, June 7, 1809.

THE conduct of British traders, in introducing spirituous liquors among the Indians, in this part of the country, and their determined hostility to the measures of our government, have long been subjects of complaint, and their infamous stories have much embarrassed our operations.

Detroit, June 16, 1809.

THE influence of the prophet has been great, and his advice to the Indians injurious to them and the United States. We have the fullest evidence, that his object has been to form a combination of them in hostility to the United States. The powerful influence of the British has been exerted in a way alluring to the savage character.

Vincennes, June 14, 1810.

I HAVE received information from various sources, which has produced entire conviction on my mind that the prophet is organizing a most extensive combination against the United States.

The person who had charge of the boat, sent up the river with the annuity salt, has just returned, and reports that the prophet and the Kickapoos who were with him, refused to receive that which he was directed to deliver to them, on his way up the Wabash; but he was ordered by the prophet to leave the salt on the bank of the river, as he could not determine whether he would receive it or not until his brother, the war chief, arrived from Detroit. On the return of the boat, the master was directed to take the salt on board, as they were determined to have nothing to do with it. Whilst they were rolling the salt into the boat the prophet seized the master by the hair and shook him violently, asking him whether he was an American?

Vincennes, June 26, 1810.

WINAMAC assured me that the prophet, not long since, proposed to the young men to murder the principal chiefs of all the tribes ; observing, that their hands would never be untied until this was effected ; that these were the men who had sold their lands, and who would prevent them from opposing the encroachments of the white people.

An Iowa Indian informs me, that two years ago this summer, an agent from the British arrived at the prophet's town, and in his presence, delivered the message with which he was charged, the substance of which was, to urge the prophet to unite as many tribes as he could against the United States ; but not to commence hostilities until they gave the signal.

From this man and others of his nation, I learn that the prophet has been constantly soliciting their own and other tribes of the Mississippi, to join him against the United States.

Vincennes, July 11, 1810.

I HAVE received a letter from fort Wayne which confirms the information of the hostile designs and combination of the Indians. The people in the neighbourhood where the horses were stolen are so much alarmed that they are collecting together for their defence.

Vincennes, July 18, 1810.

FROM the Iowas, I learn that the Sacs and Foxes have actually received the tomahawk, and are ready to strike whenever the prophet gives the signal. A considerable number of the Sacs went some time since to see the British superintendent, and on the first instant fifty more passed Chicago for the same destination. A Miami chief who has just returned from his annual visit to Malden, after having received the accustomed donation of goods, was thus addressed by the British agent : " My son, keep your eyes fixed on me, my tomahawk is now up ; be you ready, but do not strike until I give the signal."

St. Louis, July 20, 1810.

A FEW weeks ago the post-rider, on his way from Vincennes to this place, was killed, and the mail lost ; since that time we have had no communication with Vincennes. A part of the Sacs and the greatest part of the Kickapoos, who reside east of the Mississippi, have been absent some time on a visit to the Indian prophet. One hundred and fifty Sacs are on a visit to the British agent, by invitation, and a smaller party on a visit to the island of St. Joseph in lake Huron.

Vincennes, July 25, 1810.

THERE can be no doubt of the designs of the prophet and the British agent of Indian affairs to do us injury. This agent is a refugee from the neighbourhood of —, and his implacable hatred to his native country prompted him to take part with the Indians in the battle between them and general Wayne's army. He has, ever since his appointment to the principal agency, used his utmost endeavours to excite hostilities, and the lavish manner in which he is allowed to scatter presents amongst them, shows that his government participates in his enmity, and authorizes his measures.

Detroit, July 27, 1807.

LARGE bodies of Indians from the westward and southward continue to visit the British post at Amherstburgh, and are supplied with provision, arms, ammunition, &c. Much more attention is paid to them than usual.

Fort Wayne, August 7, 1810.

SINCE writing you on the 25th ultimo, about one hundred Sawkies have returned from the British agent, who supplied them liberally with every thing they stood in want of. The party received forty-seven rifles and a number of fusils, with plenty of powder and lead. This is sending firebrands into the Mississippi country, inas-

much as it will draw numbers of our Indians to the British side, in the hope of being treated with the same liberality.

Vincennes, August 1, 1810.

A NUMBER of the inhabitants of the northern frontier of the Jeffersonville district have been driven off by the Indians, and much of their property destroyed.

St. Louis, September 12, 1810.

On the night of the 20th of July, four white men who reside near the Missouri, about one hundred miles from this place, who had been in pursuit of horses which had been stolen from them, were killed in their camp, and one wounded, by the Indians.

Gomo, the principal chief of the Pottawatomies, assured me that the portion of the Pottawatomies under his authority did not commit the murder. He blames the prophet, with whom he disclaims any connection.

Vincennes, February 6, 1811.

If the intentions of the British government are pacifick, the Indian department of Upper Canada have not been made acquainted with them, for they have very lately said every thing to the Indians who visited them to excite them against us.

Fort Wayne, February 8, 1811.

——— has been at this place. The information derived from him is the same I have been in possession of for several years, to wit: the intrigues of the British agents and partisans in creating an influence hostile to our people and government within our territory. I do not know whether a garrison is to be erected on the Wabash or not; but every consideration of sound policy urges the early establishment of a post somewhere contiguous to the prophet's residence.

Chicago, May 13, 1811.

AN assemblage of the Indians is to take place on a branch of the Illinois, by the influence of the prophet: the result will be hostile, in the event of a war with Great Britain.

St. Louis, May 24, 1811.

FROM the hostile appearance of the Indians towards the lakes, and about the head of the Wabash river, I have thought it a duty to keep out spies, and have at this time spies among those tribes. I enclose you a *talk* from the Iowas (from which the following is extracted:) "I tell you this although death is threatened against those who discover it: the time is drawing nigh when the murder is to begin, and all the Indians who will not join are to die with the whites."

Chicago, June 2, 1811.

SEVERAL horses have been stolen by the Indians. The Indians in this quarter are inclined to hostility.

Vincennes, June 19, 1811.

I INFORMED you by my last that I had sent a perogue up the Wabash with the annuity salt. All the salt was taken by the prophet, five barrels of which only were destined for the prophet's town. — informs me, by the perogue, that there are about six hundred men; and that Tecumseh is daily expected, with a considerable reinforcement, from the lakes.

Illinois Territory, June 20, 1811.

INDIANS hostile. Enclosing a deposition, which proves that a man was murdered, and a woman taken prisoner.

Old Station, June 21, 1811.

It is with pain I inform you that I just received an express, that on yesterday, 9 o'clock, P. M. the Indians killed one man and mortally wounded another.

Illinois Territory, June 27, 1811.

In consequence of the hostile appearance of the Indians, block houses are erecting on the frontier in front of the settlements. As much of the regular military force should be afforded for protection as can be spared.

Vincennes, July 2, 1811.

We were informed four weeks ago that it was the intention of the prophet to commence hostilities in the Illinois territory, in order to cover his principal object, which was an attack upon this place.

These events require no comments. They merit, and no doubt will receive, the immediate attention of the government. The people are in great alarm, and have talked of collecting in stations. A despatch has also been received from the Illinois territory, informing of hostilities and murders.

St. Louis, July 3, 1811.

ALL the information received from the Indian country confirms the rooted enmity of the prophet to the United States, and his determination to commence hostilities as soon as he thinks himself sufficiently strong. His party is increasing, and from the insolence which himself and party have lately manifested, and the violence which has lately been committed by his neighbours and friends the Pottawatomies on our frontiers, I am inclined to believe that the crisis is fast approaching.

A number of horses have been taken from the Mississippi by Pottawatomies, Winnebagoes, and others under the influence of the prophet.

Illinois Territory, July 6, 1811.

AN express has been received, with information of several other murders having been committed by the Indians on the frontiers: In fact, I consider peace as totally out of the question; we need not expect it till the prophet's party is dispersed, and the bands of Pottawotomies about the Illinois river are cut off.

Hostility with them has grown into a habit; there is no reason to believe that they will make sufficient satisfaction for the murders they committed, and the goods and horses which they stole last year, or for the very aggravated and increased instances of similar hostilities in the present year. Energetick measures would lessen his power of forming coalitions with other tribes, but we have not the power of taking any efficient means to arrest his progress; if we do not make preparation to meet him, an attack is certain; if we make preparation formidable enough to deter him, though no war actually take place, we have to encounter all the expense, inconvenience, and injury to which war with him would subject us, and there seems to be no reasonable ground to hope for a change for the better, whilst he is permitted to increase his strength from impunity.

Vincennes, July 10, 1811.

I HAVE supposed that if the prophet does not immediately throw off the mask and commence the war, that calamity might yet be avoided by marching a considerable force up to our exterior boundary on the Wabash, and requiring the immediate dispersion of the banditti he has collected.

Belle Fontaine, July 22, 1811.

ON the 11th instant, I detached a subaltern, sergeant, corporal, and fifteen privates, with a month's provisions, to the Illinois river, to choose a proper site for a block house for temporary accommodation and defence; with

orders to scout and reconnoitre the country and to watch every movement of the Indians.

Vincennes, August 6, 1811.

THE Shawonoe chief Tecumseh, has made a visit to this place with about three hundred Indians, though he promised to bring but a few attendants; *his intentions hostile*, though he found us prepared for him.

Tecumseh did not set out till yesterday, he then descended the Wabash, attended by twenty men, on his way to the southward. After having visited the Creeks and Choctaws he is to visit the Osages and return by the Missouri. The spies say his object in coming with so many, was to demand a retrocession of the late purchase. At the moment he was promising to bring but a few men with him, he was sending in every direction to collect his people: that he meditated a blow at this time was believed by almost all the neutral Indians.

Illinois Territory, August 11, 1811.

NOTHING but the most perfect conviction of the necessity, could have induced the calling out of the militia. Whether the prophet intends to make war or not, partial war must continue to be the consequence: the hostility which he excites against the United States is the cement of union among his confederates, and such is the nature of Indians, that they cannot be collected and kept together under such circumstances, without having their minds prepared for war, and in that situation it is almost impossible to restrain them from premature acts of hostility. Were this the only danger it would be sufficient to justify the dispersion of the prophet's party.

Fort Wayne, August 18, 1811.

It appears that the fruit of the Shawonoe prophet and his band, is making its appearance in more genuine colours than heretofore. I have lately had opportunities of seeing many of the Indians of this agency from different

quarters, and by what I have been able to learn from them, particularly the Pottawatomies, I am induced to believe the news circulating in the papers respecting the depredations committed in the Illinois territory by the Indians, is mostly correct, and is thought by them to have proceeded from Mar Poe and the influence of the Shawonoe prophet. Several of the tribes have sent to me for advice.

Nashville, September 10, 1811.

As I passed through the Chickasaw nation, a respectable man of that nation informed me that a deputation of eighteen northern Indians and two Creeks were on their way to the Creek nation, but would not tell their business, nor the object of their mission. The party consisted of six Shawanoes, six Kickapoos, and six of some tribe far to the north west, the name of which they refused to tell; from the manner in which they proceeded the Indians are of opinion, their intention is to stimulate the Creeks and Cherokees to hostilities against the United States.

Nashville, September 9, 1811.

THERE is in this place a very noted chief of the Chickasaws, a man of truth, who wishes the President should be informed that there is a combination of the northern Indians, promoted by the English, to unite in falling on the frontier settlements, and are inviting the southern tribe to join them.

Vincennes, September 17, 1811.

— states that almost every Indian from the country above this, had been, or were then gone to Malden on a visit to the British agent. We shall probably gain our destined point at the moment of their return. If then the British agents are really endeavouring to instigate the Indians to make war upon us, we shall be in their neighbourhood at the very moment when the impressions which have been made against us are most active in the minds of the savages. — succeeded in getting the chiefs to-

gether at Fort Wayne, though he found them all preparing to go to Malden. The result of the council discovered that the whole tribes (including the Weas and Eel rivers, for they are all Miamies) were about equally divided in favour of the prophet and the United States. Lapourier, the Wea chief, whom I before mentioned to you as being seduced by the prophet, was repeatedly asked by ——— “what land it was that he was determined to defend with his blood, whether it was that which was ceded by the late treaty or not?” but he would give no answer.

——— reports that all the Indians of the Wabash have been, or now are, on a visit to the British agent at Malden; he has never known more than one fourth as many goods given to the Indians as they are now distributing. He examined the share of one man (not a chief) and found that he had received an elegant rifle, 25 pounds of powder, 50 pounds of lead, 3 blankets, 3 strouds of cloth, 10 shirts, and several other articles. He says every Indian is furnished with a gun (either rifle or fusil) and an abundance of ammunition. A trader of this country was lately in the king's store, at Malden, and was told that the quantity of goods for the Indian department, which had been sent out this year, exceeded that of common years by 20,000 pounds sterling. It is impossible to ascribe this profusion to any other motive than that of instigating the Indians to take up the tomahawk. It cannot be to secure their trade, for all the peltries collected on the waters of the Wabash in one year, if sold in the London market, would not pay the freight of the goods which have been given to the Indians. Although I am decidedly of opinion that the tendency of the British measures is hostility to us, candour obliges me to inform you, that, from two Indians of different tribes, I have received information that the British agent absolutely dissuaded them from going to war against the United States. One of them (a Delaware) says that he was present at the audience given by the agent to three hundred Sacs from the Mississippi. The latter informed him that they had taken up the tomahawk against the United States, at the request of the prophet, and that they came there to get arms and ammunition. That ——— told them he would supply their wants, but strongly advised them to decline the meditated war.

Vincennes, September 25, 1811.

As captain Piatt was coming from Louisville to this place, his horses and that of another traveller were taken from the stable, on the White river, thirty-five miles from this; and the night after, four others from the Roperon settlement. The trail of the horses from the latter place, was very visible; and two white men and a free negro, who speaks some of the Indian languages, went immediately in pursuit of them. They crossed the Wabash, and on the second day near night, they came to the Indian camp. There were but three Indians in the camp, and they soon discovered their own horses, captain Piatt's and a number more. They agreed to give up the four horses taken from Roperon. Our people commenced their return, and had gotten but a few miles when they perceived the Indians following them. Having but one gun amongst them, they endeavoured to escape by flight, but the two foremost Indians soon came so near as to fire on them. They had no other alternative than to abandon all the horses, even those which they had rode, and betake themselves to a thick swamp which luckily presented itself.

Vincennes, October 6, 1811.

THE Indians have been again plundering our citizens. They took eight horses from a detached settlement in the Illinois territory, about thirty miles above Vincennes, in open day light.

On the Wabash, October 13, 1811.

THE prophet has not contented himself with throwing the gauntlet, but has absolutely commenced the war. His parties were in our neighbourhood for the first time, on the night of the 10th instant. Our sentinels were fired upon, and one of the best men of the 4th regiment badly, though not mortally wounded.

On the Wabash, October 28, 1811.

THE Delaware chiefs arrived in camp yesterday, and gave an account of their efforts to induce the prophet to lay aside his hostile designs. They were badly treated and insulted, and finally dismissed with the most contemptuous remarks upon them and us. The party which fired upon our sentinels, arrived at the town when the Delawares were there; they were Shawanoes, and the prophet's nearest friends.

Vermillion River, November 2, 1811.

A LETTER from colonel Miller (whose indisposition was such as to oblige me to leave him at the new fort) announces, that an attack has been made upon a boat loaded with corn, which was ascending the river from the fort, to this place. It was fired on four miles above the fort, and one man killed.

Chickasaw, November 29, 1811.

THE Shawanoe Indians, and some of the Kickapoos, solicited the king of this nation for men to join the prophet's party. I am told that there are some Creeks gone to join the prophet's party; how many I have not heard.

I have been constantly advising this nation against, and showing them the consequences of, joining the prophet.

St. Louis, November 23, 1811.

ONE of the bands of the Pottawatomies, on the Illinois river, have lately killed about twenty head of cattle and a number of hogs, the property of the inhabitants of the village of Peaorias, and have threatened the white settlers of that village with destruction if they take part with the Americans in preference to them. A like conduct has been pursued by some of the Indians about Prairie de Chien, who have ascended the Mississippi above that place, and are wintering with a trader who, as I am informed,

has smuggled a very large supply of British goods into the Mississippi by Prairie de Chien.

I am willing to believe that when the unfriendly bands, towards the lakes, hear of the defeat of the prophet, and the loss which has been sustained by his followers, that their tone will be changed, (if no exertions are made by the British agents) and they will most probably come into the measures of their chiefs who have been willing to be on friendly terms, and do us justice.

To effect a permanent termination of the differences which now exist, I presume the prophet's party will be pursued in every direction, caught and punished, and temporary establishments of regular troops made, calculated to prevent Indian combinations, and check British influence with those tribes towards the lakes.

A Pottawatomie chief, called the White Rabbit, is at this time on a mission from the prophet to the Sacs, Foxes and Seiou, the object of which is, to gain them over to his party: those tribes to act in the spring. I do not believe the mission will succeed; indeed, I have not been under any apprehension of the prophet's gaining over any of the Indians on this side of the Mississippi.

The Sacs, Foxes and some of the Iowas, were, at one time, partially under the influence of the prophet and British, and would have done a great deal of mischief, if their plans had not been fortunately discovered in time.

I am informed that the British agents, or suspected persons, have been, indirectly, tampering with the Sacs, Iowas and Seiou; if they meet with any success it will be partial.

MEMORIALS

FROM THE INHABITANTS OF THE INDIANA AND ILLINOIS TERRITORIES, ADDRESSED TO THE PRESIDENT OF THE UNITED STATES.

At a meeting of a very considerable number of the citizens of the county of Knox, at the seminary in Vincennes, on Wednesday the 31st of July, 1811; when colonel

Ephraim Jordon was appointed president, and captain James Smith, secretary. Thereupon, general W. Johnson addressed the meeting, in which he informed them of the present situation of the inhabitants of not only the town, but country, in regard to the Shawanoe prophet, his brother Tecumseh and their confederacy of Indians, and advised, that for the safety of the citizens, some resolutions should be fallen into; and the following were adopted, viz.

1. *Resolved*, That it is the opinion of this meeting, that the safety of the persons and property of this frontier can never be effectually secured but by the breaking up of the combination formed by the Shawanoe prophet on the Wabash.

2. *Resolved*, That we consider it highly impolitick and injurious, as well to the inhabitants of the United States as that of the territory, to permit a formidable banditti, which is constantly increasing in number, to occupy a situation which enables them to strike our settlements without the least warning.

3. *Resolved*, That we are fully convinced that the formation of the combination headed by the Shawanoe prophet is a British scheme, and that the agents of that power are constantly exciting the Indians to hostilities against the United States.

4. *Resolved*, That the assemblage of Indians at this place, at this time, and under the circumstances which attend it, was calculated to excite the most serious alarm, and but for the energetick measures which have been adopted by our executive, it is highly probable that the threatened destruction of this place, and the massacre of the inhabitants, would have been the consequence.

5. *Resolved*, That a temporizing policy is not calculated to answer any beneficial purpose with savages, who are only to be controlled by prompt and decisive measures.

6. *Resolved*, That we approve highly of the prompt and decisive measures adopted by the governour of the territory. We are convinced that the situation in which we stand with the prophet and his adherents rendered them necessary for our safety, and from them we confidently expect such a termination of the presumptuous preten-

sions of this daring chief, as must be pleasing to every patriot, and honourable to himself.

7. *Resolved*, That a committee, to consist of the reverend Samuel T. Scott, reverend Alexander Deven, colonel Luke Decker, colonel Ephraim Jordon, Daniel M'Clure, and Walter Wilson, Esquires, and colonel Francis Vigo, or a majority of them, be, and they are hereby appointed to prepare and forward to the Executive of the United States a respectful address on the behalf of this meeting, assuring him of our attachment to his person and administration, and requesting him to take such measures as his wisdom may dictate to free the territories in this quarter from future apprehensions from the prophet and his party; and that he also be requested to insist upon the surrender, by the Indian tribes, of those who have murdered our fellow citizens, and provide compensation for such as have lost their property.

8. *Resolved*, That these resolutions be printed in the Western Sun, and also that an address may be prepared and forwarded to the President in pursuance of them.

E. JORDON, President.

JAMES SMITH, Secretary.

TO JAMES MADISON, PRESIDENT OF THE UNITED STATES.

SIR,—In obedience to the wishes of a numerous meeting of our fellow citizens, assembled for the purpose of taking into consideration the state of this country in relation to Indian affairs, we have the honour to address you. In approaching the chief magistrate of our country, who is so deservedly celebrated for the talents which distinguish the statesman, and the virtues which adorn the man, we should not do justice to our own feelings, and the feelings of those whom we represent, if we neglected to express our confidence in his administration, and our sincere respect and esteem for his person.

In fulfilling the duty which has been assigned to us, sir, it is scarcely necessary that we should do more than to refer you to the resolutions which are enclosed: they contain a true statement of facts, and a true picture of the feelings of the citizens of this part of the country. It is impossible to doubt but that the combination which has

been formed on the Wabash is a British scheme ; and it is equally certain that this banditti is now prepared to be let loose upon us, and that nothing but vigorous measures will prevent it. In this part of the country, we have not as yet lost any of our fellow citizens by the Indians ; but depredations upon the property of those who live upon the frontiers, and insults to the families that are left unprotected, almost daily occur.

The impunity with which these savages have been so long suffered to commit crimes, has raised their insolence to a pitch that is no longer supportable.

We are not, sir, advocates for unnecessary rigour towards our Indian neighbours. The character which some of us sustain as ministers of the gospel of Christ, will shield us from the suspicion that we wish to plunge our country in an unnecessary war : our object is peace ; but we are fully persuaded that that blessing can now only be secured to us by the exertion of some vigour.

Let the savages be made sensible that every aggression from them will meet with prompt punishment, and Indian depredations will seldom be heard of.

Since the adoption of the resolutions under which we act, we have listened to the speech delivered by the brother of the prophet to governour Harrison, and if a doubt remained upon our minds as to the designs of the confederacy he has formed, it has been completely removed. Shall we then quietly wait the stroke, when we see the weapon suspended over us ? We hope and trust this will not be expected, and that the general government will take effectual measures to avert the danger : What these measures shall be we will not presume to dictate ; but we beg leave most respectfully to observe, that we conceive that the country will forever be exposed to those alarms, which are at once so injurious to its settlement and the interests of the United States, so long as the banditti under the prophet are suffered to remain where they now are. The people have become highly irritated and alarmed ; and if the government will not direct their energies, we fear that the innocent will feel the effects of their resentment, and a general war be the consequence. The western country, sir, is indebted to your predecessor for an undeviating attention to its prosperity, and the gratitude and attachment which they feel towards that distin-

guished patriot, can never be effaced. With equal confidence they look up to his successor, who, pursuing the same course of policy with regard to European powers, is to them sufficient proof of coincidence of sentiment in that which relates to the continent.

That you may be the means, under Providence, of establishing the affairs of your country, and settling its interests in every quarter of the globe, upon a secure and lasting foundation, and that you may long live to enjoy the blessing of your countrymen for the happiness procured for them, is the sincere prayer of your fellow citizens,

SAMUEL T. SCOTT,
ALEXANDER DEVIN,
LUKE DECKER,
EPHRAIM JORDON,

DANIEL M'CLURE,
WALTER WILSON,
FRANCIS VIGO.

At a large meeting of the inhabitants of the county of St. Clair, Illinois territory, where colonel William Whiteside was conducted to the chair, and Samuel D. Davidson, Esq. appointed secretary;

Resolved unanimously, That the following memorial be presented to Ninian Edwards, governour of the territory aforesaid, as the joint sense of the meeting, to be signed by the chairman; which humbly sheweth, that we are highly gratified in the prompt, speedy, and prudential manner in which your excellency has issued your orders for the defence of the exposed frontiers of said country, to oppose the repetition of Indian hostilities; and that we have the utmost and uncontrovertible confidence in your abilities and patriotism, for our safety in the present alarming times, as the constitutional channel between the general government and us.—*Wherefore,* we confidently request of your excellency to forward the annexed memorial to the President of the United States, with such statements as may appear reasonable and just, to gain the object prayed for, as we are confident your excellency must feel and see with us, that one or more garrisons, established and defended by the regular veterans of the United States, would be of the utmost safety to the extensive and exposed frontiers of both the Louisiana and Illinois territories, in a more particular manner, as the great and

numerous tribes of Indians, who had the hardihood and insolence to wage war against the United States, (and in some instances with effect) a few years since, that by the treaty of Greenville, and other subsequent treaties, have relinquished their title to their former hunting ground, which is now transformed into substantial plantations, and are changing their habitations fast from the lakes, and waters of the Ohio, down the Illinois river to the Mississippi, where, undoubtedly, it would be necessary to establish a fort, in order to set reasonable bounds to their savage fury and unprovoked disturbance; we beg leave to refer your excellency to a view of the great and manifest benefits lately obtained, by the garrisons established far up on the two great rivers, several hundred miles above their junction, when, before the establishing of these strengths, there did not a season pass by, but some innocent person fell a victim to savage barbarity, on both sides of the river; and we confidently believe it would have the same salutary effect, in establishing one fort or block house on the first eminence above either the mouths of the Missouri or the Illinois rivers, and another in the seditious village of Priarias, the great nursery of hostile Indians and traitorous British Indian traders; we hope it will not be thought superfluous to mention, that the above request is not to gratify our pride or avarice, in obtaining military pomp to decorate our streets, or the expenditure of publick money to buy our produce, but it is to keep the improving citizen in peace, on a remote region from the United States, who is now working to convert the fertile and extensive plains of the Mississippi into the fairest portion of the Union. From different circumstances, the inhabitants of this country are not in possession of a sufficiency of arms to repel any attack that may be offered; owing to the present alarm, it is not in my power to buy any, and a considerable portion of the militia are not circumstanced to buy; if your excellency will be pleased to make use of your good office to obtain from the general government the use of what rifles and muskets as may be thought, in your wisdom, needful, it certainly would be of great service to this frontier country.

WM. WHITESIDE,

SAML. D. DAVIDSON.

At a numerous meeting of the militia officers and other inhabitants of St. Clair county, Illinois territory, at the court house, the — day of —, 1811, to take into consideration the alarming situation of the frontiers of this county, from the numerous and horrid depredations lately committed by the Indians; colonel William Whiteside was conducted to the chair, and Samuel D. Davidson appointed secretary.

Resolved, That there be a memorial immediately signed by the chairman of this meeting, and countersigned by the secretary, stating to the President of the United States, the necessity of his ordering what number of regular troops he in his wisdom may think requisite, to be stationed for the defence of said county.

Resolved, That the said memorial be sent to the governor of said territory, requesting him to forward the same to the President of the United States, and make such statement (to accompany said memorial) as the urgency of the subject does require.

TO JAMES MADISON, PRESIDENT OF THE UNITED STATES,
GREETING.

THE memorial of the inhabitants of the aforesaid county, humbly sheweth:

That the inhabitants residing on the frontiers aforesaid have sustained frequent and repeated damages from the different and numerous tribes of Indians, on, and in the neighbourhood of the Illinois river these five or six years past, by stealing their horses and other property, as well as the cruel murder of some few of their citizens. In lieu of retaliating, the said citizens curbed their passions and restrained their resentment, lest they should be so unfortunate as to draw a stigma on the government, by punishing the innocent for the transgressions of the guilty; and, in one instance restrained the vindictive spirit, by taking two Indians prisoners, who were in possession of stolen property, after a chase of one hundred miles, and gave them up to the law.

We are become the victims of savage cruelty in a more hasty and general manner than what has lately been ex-

perienced in the United States. Last spring there were numbers of horses stolen. On the 2d of June, a house of Mr. Cox was robbed of valuable effects, five horses stolen, a young man massacred, and his sister taken prisoner; sad and conclusive presages of war! There was likewise a man severely wounded when following the aforesaid Indians.

On the twentieth of the same month, (June) a man was killed and scalped, and another mortally wounded, which can be more fully stated by the executive of said territory. Those who have suffered, are not intruders, but are living on their own farms, on the north western frontier of said county. From our knowledge of the danger we are in, and our long suffering, we think we ask nothing but what is reasonable, and what will be advantageous to the United States; when we implore you to station what number of soldiers you may think sufficient to establish a garrison at the village of Piorias, commonly called Opea, on the Illinois river; and one other on the eastern bank of the Mississippi, at, or near, the place once viewed and adopted by captains Stoddart and Bissel, six or eight miles below the mouth of said Illinois river, both sites being covered by treaty. We beg leave to refer you to the governor of said territory concerning the urgency and necessity of the case; not doubting, but that you will grant our request, if you think it will be for the welfare of the Union.

WILLIAM WHITESIDE.
SAMUEL D. DAVIDSON.

War Department, January 17, 1812.

SIR,—In addition to the information heretofore given in answer to your letter of the 25th of November, I have the honour to enclose extracts from the speeches of the Seneca, and Ottawa nations of Indians.

With great respect, sir, &c.

W. EUSTIS,

Hon. Samuel M'Kee, Chairman.

*Extract from a Speech of Red Jacket, in behalf of himself
and the other Deputies of the Six Nations.*

BROTHER,—At the time we were making bright the chain of friendship at Canandaigua, the commissioner on your part told us, that time might come when your enemies would endeavour to disturb our minds, and do away the friendship we had then formed with you. That time, brother, has already arrived. Since you have had some disputes with the British government, their agents in Canada have not only endeavoured to make the Indians at the westward your enemies, but they have sent a war belt amongst our warriors to poison their minds and make them break their faith with you. This belt we exhibited to your agents in council, and then sent it to the place from whence it came, never more to be seen among us. At the same time we had information that the British had circulated war belts among the western Indians, and within your territory. We rested not, but called a general council of the Six Nations, and resolved to let our voice be heard among our western brethren, and destroy the effects of the poison scattered among them. We have twice sent large deputations to their council fire, for the purpose of making their minds strong in their friendship with your nation; and in the event of a war between the white people, to sit still on their seats, and take no part on either side; so far as our voice has been heard, they have agreed to hearken to our council, and remain at peace with your nation.

Brother,—If war should take place, we hope you will inform us of it through your agents, and we will continue to raise our influence with all the Indians with whom we are acquainted, that they will sit still upon their seats, and cultivate friendship with our people.

(Signed by all the Chiefs.)

[Taken from the interpretation of Mr. Jasper Parish, in presence of Erastus Granger, United States' agent to the Six Nations, Washington City, February 13, 1810.]

Extract from the Speech of the Ottawa Nation of Indians, delivered to the Secretary of War by their Delegation on the 5th of October, 1811.

"FATHER,—A man of the Pottawatomy nation, who pretends to be a prophet among us, has frequently endeavoured to stir up a hostile disposition in our minds towards the American people. He has very lately sent a speech to us and the Chippewa nation, fraught with bad and foolish advice.

"Father! Our ears are closed to those bad birds which sing around us, and we have returned for answer, that whosoever listened to the advice of the prophet or his followers, would be destroyed by the American people."

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.
JUNE 15, 1812.

I TRANSMIT, for the information of Congress, copies of letters which have passed between the Secretary of State and the envoy extraordinary and minister plenipotentiary of Great Britain.

JAMES MADISON.

Mr. Foster to Mr. Monroe. Washington, June 10, 1812.

SIR,—It has been extremely satisfactory to me to find by your letter dated June 6th, which I had the honour to receive yesterday morning, that it was not the wish of the American government to close all further discussion relative to the important question at issue between the two countries. I beg you to be assured, sir, that it never was my intention, in alluding to my letters which had remained without answer at your office, to use any expressions which could, in the most remote manner, contain any thing personal. I shall ever be ready, with pleasure, to

bear testimony to that frankness, candour and good temper, which so eminently distinguish you, and have been acknowledged to belong to you, by all who have ever had the honour to discuss with you any questions of publick interest.

But, sir, although you were not backward in entering into full explanations with me verbally, I could not but feel, particularly as I had just had communications to make to you of the greatest importance, that I had a right to expect from you a written reply to them; and while I remembered that two of my former notes were still unanswered, the one written three months ago, containing, among other important topicks, a particular question which I was expressly instructed to put to you, as to whether you could point to any publick act, on the part of the French government, by which they had really revoked their decrees, and the other furnishing strong evidence of the continued existence of those very decrees; also, when I perceived that my note, communicating the duke of Bassano's report, which you knew was to be sent to you on the 1st inst. was not waited for, but that a message was transmitted by the Executive to Congress, which it seems contained a reference to an insulated passage in the despatch on which my note was founded, that if taken unconnected with what preceded or followed it, might be liable to misconstruction, I could not avoid apprehending that no means of further explanation might be left open to me.

I beg you to be assured, sir, that if I was embarrassed by your demands of an explanation as to what appeared to you to be a difference between lord Castlereagh's despatch, communicated to you, and my note, it arose from the novelty of the demand, that seemed to involve an informality of proceeding in which I could not feel myself justified in acquiescing. Had you in making a reply to my communication, asked me how far a repeal of the French decrees was demanded by my government, and as to whether a special repeal as far as respected America, would be sufficient, I should have had no hesitation in giving you every satisfaction.

Your note of the 6th instant has, by showing that the door was not absolutely shut to a continuation of our discussion, relieved me from further difficulty on this point.

I have no hesitation, sir, in saying that Great Britain, as the case has hitherto stood, never did, nor ever could engage, without the grossest injustice to herself and her allies, as well as to other neutral nations, to repeal her orders as affecting America alone, leaving them in force against other states, upon condition that France would except singly and specially, America from the operation of her decrees. You will recollect, sir, that the orders in council are measures of defence, directed against the system contained in those decrees; that it is a war of trade which is carried on by France; that what you call the municipal regulations of France, have never been called municipal by France herself, but are her main engines in that novel and monstrous system. It cannot then be expected that Great Britain should renounce her efforts to throw back upon France the evils with which she menaces Great Britain, merely because France might seek to alleviate her own situation, by waving the exercise of that part of her system which she cannot enforce.

But, sir, to what purpose argue upon a supposed case, upon a state of things not likely to occur, since the late report and senatus consultum which have been published to the world, as it were insultingly in the face of those who would contend that any repeal whatever had taken place of the decrees in question.

You draw a comparison between the mode in which this instrument has appeared, and that which you call the high evidence of the repeal as stated in M. Champagny's note; and it would almost seem as if you considered the latter as the most authentick of the two; but, sir, you cannot seriously contend that the duke of Bassano's report, with the senatus consultum accompanying it, published in the official paper of Paris, is not a very different instrument from the above letter, offering a mere provisional repeal of the decrees, upon conditions utterly inadmissible, conditions too, which really formed of themselves a question of paramount importance.

The condition then demanded, and which was brought forward so unexpectedly, was a repeal of the blockade of May, 1806, which Mr. Pinkney, in the letter you have referred me to, declared to have been required by America as indispensable in the view of her acts of intercourse and non-intercourse, as well as a repeal of other blockades of

a similar character which were maintained by Great Britain to be founded on strict maritime right.

The conditions now annexed to the French demand are much more extensive, and, as I have shown, include a surrender of many other of the most established principles of the public law of nations.

I cannot, I confess, see upon what ground you contend that the report of the duke of Bassano affords no proof against any partial repeal of the French decrees. The principles advanced in that report are general; there is no exception made in favour of America; and in the correspondence of Mr. Barlow, as officially published, he seems to allow that he had no explanation respecting it. How can it, therefore, be considered in any other light than as a republication of the decrees themselves, which, as it were, to take away all grounds for any doubt, expressly advances a doctrine that can only be put in practice on the high seas, namely, "that free ships shall make free goods," since the application of such a principle to vessels in port is absolutely rejected under his continental system.

It is, indeed, impossible to see how, under such circumstances, America can call upon Great Britain to revoke her orders in council. It is impossible that she can revoke them at this moment, in common justice to herself and to her allies; but, sir, while under the necessity of continuing them, she will be ready to manage their exercise, so as to alleviate, as much as possible, the pressure upon America; and it would give me great pleasure to confer with you at any time upon the most advisable manner of producing that effect.

I have the honour to be, &c.

AUG. J. FOSTER.

Hop. James Monroe, &c.

Mr. Monroe to Mr. Foster. Department of State, June 13, 1812.

SIR,—I am not aware that any letter of yours, on any subject, on which the final decision of this government had not been communicated to you, has been suffered to remain without a prompt and written answer. And even in the cases thus supposed to have been settled, which you

thought proper to revive, although no favourable change had taken place in the policy or measures of your government, I have never failed to explain to you, informally, in early interviews, the reasons which made it imperiously the duty of the United States to continue to afford to their rights and interests all the protection in their power. The acknowledgment of this, on your part, was due to the frankness of the communications which have passed between us on the highly important subjects on which we have treated, and I am happy to find by your letter of the 10th instant, that, in relying on it, I have not been disappointed.

The impropriety of the demand made by your government of a copy of the instrument or instructions given by the French government to its cruisers, after the repeal of the Berlin and Milan decrees, was sufficiently shown in Mr. Pinkney's letter to the marquis of Wellesley of the 10th of December, 1810, and in my letters to you of 23d July, 1811, and 14th January last. It was for this reason that I thought it more suitable to refer you to those letters, for the answer to that demand, than to repeat it in a formal communication.

It excites, however, no small surprise that you should continue to demand a copy of that instrument, or any new proof of the repeal of the French decrees, at the very time that you declare that the proof which you demand, in the extent to which we have a right to claim the repeal, would not, if afforded, obtain a corresponding repeal of the orders in council. This demand is the more extraordinary, when it is considered that since the repeal of the decrees, as it respects the United States, was announced, your government has enlarged its pretensions, as to the conditions on which the orders in council should be repealed, and even invigorated its practice under them.

It is satisfactory to find that there has been no misapprehension of the condition, without which your government refuses to repeal the orders in council. You admit that to obtain their repeal, in respect to the United States, the repeal of the French decrees must be absolute and unconditional, not as to the United States only, but as to all other neutral nations; nor as far as they affect neutral commerce only, but as they operate internally and affect the trade in British manufactures with the enemies of

Great Britain. As the orders in council have formed a principal cause of the differences which unhappily exist between our countries, a condition of their repeal, communicated in any authentick document or manner, was entitled to particular attention. And surely none could have so high a claim to it, as the letter from lord Castlereagh to you, submitted by his authority to my view, for the express purpose of making that condition, with its other contents, known to this government.

With this knowledge of the determination of your government, to say nothing of other conditions annexed to the repeal of the orders in council, it is impossible for me to devise or conceive any arrangement, consistent with the honour, the rights and interests of the United States, that could be made the basis or become the result of a conference on the subject. As the President, nevertheless, retains his solicitude to see a happy termination of any difference between the two countries, and wishes that every opportunity, however unpromising, which may possibly lead to it, should be taken advantage of, I have the honour to inform you, that I am ready to receive and pay due attention to any communications, or propositions having that object in view, which you may be authorized to make.

Under existing circumstances it is deemed most advisable, in every respect, that this should be done in writing, as most susceptible of the requisite precision, and least liable to misapprehension. Allow me to add, that it is equally desirable that it should be done without delay. By this it is not meant to preclude any additional opportunity which may be afforded by a personal interview.

I have the honour to be, &c. &c.

JAMES MONROE.

Aug. J. Foster, &c. &c.

Mr. Foster to Mr. Monroe. Washington, June 14, 1812.

SIR,—I have the honour to acknowledge the receipt of your letter of the 13th inst.

It is really quite painful to me to perceive, that notwithstanding the length of the discussions which have taken place between us, misapprehensions have again arisen respecting some of the most important features in the questions at issue between the two countries, which mis-

apprehensions, perhaps proceeding from my not expressing myself sufficiently clear in my note, of the 10th inst. in relation to one of those questions, it is absolutely necessary should be done away.

I beg leave again to state to you, sir, that it is not the operation of the French decrees upon the British trade with the enemies of Great Britain, that has ever formed a subject of discussion between us, and that it is the operation of those decrees upon Great Britain, through neutral commerce only which has been really the point at issue. Had America resisted the effect of those decrees in their full extent upon her neutral rights, we should never have had a difference upon the subject. But while French cruisers continued to capture her ships under their operation, she seems to have been satisfied if those ships were released by special imperial mandates, issued as the occasion arose ; and she has chosen to call municipal, an unexampled assumption of authority by France in countries not under French jurisdiction, and expressly invaded for the purpose of preventing their trade with England, upon principles directly applicable to, if they could be enforced against, America.

I beg you to recollect, sir, that if no revocation has been made, of the orders in council, upon any repeal of the French decrees, as hitherto shown by America to have taken place, it has not been the fault of his majesty's government. It was France, and afterwards America, that connected the question relative to the right of blockade, with that arising out of the orders in council. You well know that if these two questions had not been united together, the orders in council would have been, in 1810, revoked. How could it be expected that Great Britain, in common justice to other neutral nations, to her allies, and to herself, should not contend for a full and absolute repeal of the French decrees, or should engage to make any particular concession in favour of America, when she saw that America would not renounce her demand for a surrender, with the orders in council, of some of our most important maritime rights.

Even to this day, sir, you have not explicitly stated in any of the letters to which you refer me, that the American government would expressly renounce asking for a revocation of the blockade of 1806, and the other blockades al-

luded to in Mr. Pinkney's letter ; much less have I been able to obtain from you any disclaimer of the right asserted by France to impose upon the world the new maritime code promulgated by France in the late republication of her decrees, although I have, by order of my government, expressly stated their expectation of such disclaimer, and repeatedly called for an explanation upon this point.

I will now say that I feel entirely authorized to assure you, that if you can, at any time, produce a full and unconditional repeal of the French decrees, as you have a right to demand it in your character of a neutral nation, and that it be disengaged from any question concerning our maritime rights, we shall be ready to meet you with a revocation of the orders in council. Previously to your producing such an instrument, which I am sorry to see you appear to regard as unnecessary, you cannot expect of us to give up our orders in council.

In reference to the concluding paragraph of your letter in answer to that in mine of the 10th instant, I will only say, that I am extremely sorry to find you think it impossible to devise or conceive any arrangement consistent with the honour, rights and interests of the United States, which might tend to alleviate the pressure of the orders in council upon the commerce of America. It would have given great satisfaction if we could have fallen upon some agreement that might have had such effect.

My government, while under the imperious necessity of resisting France with her own weapons, most earnestly desires that the interests of America may suffer as little as possible from the incidental effect of the conflict. They are aware that their retaliatory measures have forced the ruler of France to yield in some degree from his hostile decrees ; and whether it were more advisable to push those measures vigorously on until they complete the breaking of it up altogether, (the main object of our retaliatory system) or to take advantage of the partial and progressive retractions of it, produced by the necessities of the enemy, has been a question with his majesty's government. It is one on which they would have been most desirous to consult the interests of America. Under existing circumstances, however, and from our late communications, I have not felt encouraged to make you any written proposal, arising out of this state of things ; I shall, therefore, merely

again express to you, that as the object of Great Britain, has been throughout to endeavour, while forced, in behalf of her most important rights and interests, to retaliate upon the French decrees, to combine that retaliation with the greatest possible degree of attention to the interests of America, it would give his majesty's government the most sincere satisfaction if some arrangement could be found which would have so desirable an effect.

I have the honour to be, &c.

AUG. J. FOSTER.

Hon. James Monroe, &c. &c.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JUNE 16, 1812.

I TRANSMIT for the information of Congress, copies of a letter to the Secretary of State, from the charge d'affaires of the United States at London, accompanied by a letter from the latter to the British minister of foreign affairs.

JAMES MADISON.

Mr. Russell to the Secretary of State. London, April 26, 1812.

SIR,—I beg leave to hand you herewith a declaration and an order in council, of this government, on the 21st of this month, and a copy of a note* from lord Castlereagh accompanying the communication of them to me. I have already transmitted to you other copies of these documents, and have now to add a copy of the note which I have addressed in reply to that of his lordship.

I have, &c.

JONA. RUSSELL.

The Hon. James Monroe, &c.

* A copy of this note has not been received by the department of state.

*Mr. Russell to Lord Castlereagh. 18, Bentinck Street,
April 25, 1812.*

MY LORD,—I have the honour to acknowledge the receipt of the note which your lordship addressed to me on the 21st of this month, enclosing, by the command of his royal highness the prince regent, a copy of a declaration accompanying an order in council which had that day been passed.

It would have afforded me the highest satisfaction, in communicating that declaration and order to my government, to have represented them, as conceived in the true spirit of conciliation and with a due regard to the honour and interests of the United States. I regret, however, that so far from being able to perceive in them any evidence of the amicable sentiments which are professed to animate the councils of his royal highness, I am compelled to consider them as an unequivocal proof of the determination of his Britannick majesty's government to adhere to a system, which, both as to principle and fact, originated, and has been continued in error; and against which, the government of the United States, so long as it respects itself and the essential rights of the nation over which it is placed, cannot cease to contend.

The United States have never considered it their duty to inquire, nor do they pretend to decide, whether England or France was guilty, in relation to the other, of the first violation of the publick law of nations; but they do consider it their most imperious duty to protect themselves from the unjust operation of the unprecedented measures of retaliation professed by both powers, to be founded on such violation. In this operation, by which ever party directed, the United States have never for a moment acquiesced, nor by the slightest indication of such acquiescence, afforded a pretext for extending to them the evils, by which England and France, affect to retaliate on each other. They have in no instance departed from the observance of that strict impartiality which their peaceful position required, and which ought to have secured to them the unmolested enjoyment of their neutrality. To their astonishment, however, they perceived that both these belligerent powers, under the pretence of annoying each other, adopted and put in practice new principles of

retaliation, involving the destruction of those commercial and maritime rights which the United States regard as essential and inseparable attributes of their independence. Although alive to all the injury and injustice of this system, the American government resorted to no measures to oppose it, which were not of the most pacifick and impartial character in relation to both the aggressors. Its remonstrances, its restrictions of commercial intercourse, and its overtures for accommodation were equally addressed to England and France: and if there is now an inequality in the relations of the United States with these countries, it can only be ascribed to England herself, who rejected the terms proffered to both while France accepted them, and who continues to execute her retaliatory edicts on the high seas, while those of France have there ceased to operate.

If Great Britain could not be persuaded by considerations of universal equality, to refrain from adopting any line of conduct, however unjust, for which she might discover a precedent in the conduct of her enemy, or to abandon an attempt of remotely and uncertainly annoying that enemy through the immediate and sure destruction of the vital interests of a neutral and unoffending state, yet it was confidently expected that she would be willing to follow that enemy also in his return towards justice, and, from a respect to her own declarations, to proceed *pari passu* with him in the revocation of the offending edicts. This just expectation has, however, been disappointed, and an exemption of the flag of the United States from the operation of the Berlin and Milan decrees has produced no corresponding modification of the British orders in council. On the contrary, the fact of such exemption on the part of France, appears, by the declaration and order in council of the British government, on the 21st of this month, to be denied, and the engagements of the latter, to proceed, step by step, with its enemy, in the work of repeal and relaxation, to be disowned or disregarded.

That France has repealed her decrees so far as they concerned the United States, has been established by declarations and facts, satisfactory to them, and which it was presumed should have been equally satisfactory to the British government. A formal and authentick declaration of the French government, communicated to the minister

plenipotentiary of the United States at Paris, on the fifth of August, 1810, announced that the decrees of Berlin and Milan were revoked and should cease to operate on the 1st of the succeeding November, provided that a condition presented to England, or another condition presented to the United States, should be performed. The condition presented to the United States was performed, and this performance rendered absolute the repeal of the decrees. So far therefore from this repeal depending on conditions in which Great Britain could not acquiesce, it became absolute, independently of any act of Great Britain, the moment the act proposed for the performance of the United States was accomplished. Such was the construction given to this measure by the United States from the first; and that it was a correct one has been sufficiently evinced by the subsequent practice of France.

Several instances of the acquittal of American vessels and cargoes, to which the decrees would have attached, if still in force against the United States, have, from time to time, been presented to his Britannick majesty's government. That these cases have been few, is to be ascribed to the few captures, in consequence of this repeal, made by French cruisers; and should no other such case occur, it will be owing to the efficacy of this repeal, and to the exact observance of it, even by the most wanton and irregular of those cruisers.

From the first of November 1810, to the 29th of January of the present year, as appears by a note which I had the honour to address to the predecessor of your lordship, on the 8th of February last, the Berlin and Milan decrees had not been applied to American property, nor have I heard that such application has since been made.

But against the authentick act of the French government, of the 5th of August, 1810, and the subsequent conduct of that government mutually explaining each other, and confirming the construction adopted by the United States, a report said to be communicated by the French minister of foreign affairs to the conservative senate, is opposed. Without pretending to doubt the genuineness of that report, although it has reached this country only in a newspaper, yet it is to be lamented that as much form and evidence of authenticity have not been required, in an act considered as furnishing cause for the continuance of the orders in

council, as an act which, by the very terms of these orders, challenged their revocation. The act of the 5th of August, 1810, emanating from the sovereign of France, officially communicated to the British government, and satisfactorily expounded and explained by the practical comments of more than eighteen months, is denied to afford convincing evidence of the repeal of the French decrees, while full proof of their continuance is inferred from a report, which, from its very nature, must contain the mere opinions and speculations of a subject which is destitute of all authority until acted upon by the body to which it was presented, which has found its way hither in no more authentick shape than the columns of the *Moniteur*, and for the proper understanding of which not a moment has been allowed.—But even were the cause thus assigned to the report just, it is still difficult to discover what inference can be fairly deduced from it, incompatible with the previous declarations and conduct of the French government, exempting the United States from the operation of its decrees. The very exception in that report with regard to nations who do not suffer their flag to be *denationalized*, was undoubtedly made with reference to the United States, and with a view to reconcile the general tenour of that report with the good faith with which it became France to observe the conventional repeal of those decrees in their favour. However novel may be the terms employed, or whatever may be their precise meaning, they ought to be interpreted to accord with the engagements of the French government, and with justice and good faith.

Your lordship will, I doubt not, the more readily acknowledge the propriety of considering the report in this light, by a reference to similar reports made to the same conservative senate, on the 13th of December, 1810, by the duke of Cadore (the predecessor of the present French minister of exterior relations) and by the count de Simonville. In these reports they say to the emperor, (which sufficiently proves that such reports are not to be considered as dictated by him :) “Sire, as long as England shall persist in her orders in council, so long your majesty will persist in your decrees,” and “the decrees of Berlin and Milan are an answer to the orders in council. The British cabinet, has, thus to speak, dictated them to France. Europe receives them for her code, and this code shall

become the palladium of the liberty of the seas." Surely this language is as strong as that of the report of the tenth of March, and still more absolute; for there is no qualification in it in favour of any nation; yet this language has, both by an explanation from the duke of Cadore to me at the time, and by the uniform conduct of the French government since, been reconciled with the repeal of these decrees, so far as they concerned the United States.

Had the French decrees originally afforded an adequate foundation for the British orders, and been continued after these reports, in their full force and extent, surely during a period in which above a hundred American vessels and their cargoes have fallen a prey to these orders, some one solitary instance of capture and confiscation must have happened under those decrees. That no such instance has happened incontrovertibly proves either that those decrees are of themselves harmless, or that they have been repealed; and in either case they can afford no rightful plea or pretext to Great Britain, for these measures of pretended retaliation, whose sole effect is to lay waste the neutral commerce of America.

With the remnant of those decrees, which is still in force, and which consists of municipal regulations, confined in their operation within the proper and undeniable jurisdiction of the states where they are executed, the United States have no concern. Nor do they acknowledge themselves to be under any political obligation, either to examine into the ends proposed to be attained by this surviving portion of the continental system, or to oppose their accomplishment. Whatever may be intended to be done in regard to other nations by this system, cannot be imputed to the United States, nor are they to be made responsible, while they religiously observe the obligations of their neutrality for the mode in which belligerent nations may choose to exercise their power, for the injury of each other. When, however, these nations exceed the just limits of their power by the invasion of the rights of peaceful states on the ocean which is subject to the common and equal jurisdiction of all nations, the United States cannot remain indifferent, and by quietly consenting to yield up their share of this jurisdiction, abandon their maritime rights.—France has respected these rights

by the discontinuance of her edicts on the high seas ; leaving no part of these edicts in operation to the injury of the United States ; and of course, no part in which they can be supposed to acquiesce, or against which they can be required to contend. They ask Great Britain, by a like respect for their rights, to exempt them from the operation of her orders in council. Should such exemption involve the total practical extinction of these orders, it will only prove that they were exclusively applied to the commerce of the United States, and that they had not a single feature of resemblance to the decrees, against which they are professed to retaliate.

It is with patience and confidence that the United States have expected this exemption, and to which they believed themselves to be entitled by all those considerations of right and promise, which I have freely stated to your lordship. With what disappointment, therefore, must they learn that Great Britain, in professing to do away their dissatisfaction, explicitly avows her intention to persevere in her orders in council, until some authentick act hereafter to be promulgated by the French government, shall declare the Berlin and Milan decrees to be expressly and unconditionally repealed. To obtain such an act can the United States interfere ? Would such an interference be compatible either with a sense of justice or with what is due to their own dignity ? Can they be expected to falsify their repeated declarations of their satisfaction with the act of the 5th August, 1810, confirmed by abundant evidence of its subsequent observance, and by now affecting to doubt of the sufficiency of that act, to demand another which in its form, its mode of publication, and its import, shall accord with the requisitions of Great Britain ? And can it be supposed that the French government would listen to such a proposal made under such circumstances, and with such a view ?

While, therefore, I can perceive no reason, in the report of the French minister, of the 10th of March, to believe that the United States erroneously assumed the repeal of the French decrees to be complete in relation to them ; while aware that the condition on which the revocation of the orders in council is now distinctly made to depend, is the total repeal of both the Berlin and Milan decrees, instead as formerly of the Berlin decree only ; and while I

feel that to ask the performance of this condition from others, is inconsistent with the honour of the United States, and to perform it themselves beyond their power ; your lordship will permit me frankly to avow, that I cannot accompany the communication to my government, of the declaration and order in council of the 21st of this month, with any felicitation on the prospect which this measure presents of an accelerated return of amity and mutual confidence between the two states.

It is with real pain that I make to your lordship this avowal, and I will seek still to confide in the spirit which your lordship in your note, and in the conversation of this morning, has been pleased to say actuates the councils of his royal highness in relation to America, and still to cherish a hope that the spirit will lead, upon a review of the whole ground, to measures of a nature better calculated to attain its object, and that this object will no longer be made to depend on the conduct of a third power, or upon contingencies over which the United States have no control, but alone upon the rights of the United States, the justice of Great Britain, and the common interests of both.

I have the honour to be, &c.

JONATHAN RUSSELL.

The Rt. Hon. Viscount Castlereagh.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS the Congress of the United States, by virtue of the constituted authority vested in them, have declared by their act bearing date the eighteenth day of the present month, that war exists between the united kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their territories ; now therefore I, James Madison, President of the United States of America, do hereby proclaim the same to all whom it may concern : and I do specially enjoin on all persons holding offices, civil or military, under the autho-

city of the United States, that they be vigilant and zealous, in discharging the duties respectively incident thereto: And I do moreover exhort all the good people of the United States, as they love their country; as they value the precious heritage derived from the virtue and valour of their fathers; as they feel the wrongs which have forced on them the last resort of injured nations; and as they consult the best means, under the blessing of Divine Providence, of abridging its calamities, that they exert themselves in preserving order, in promoting concord, in maintaining the authority and the efficacy of the laws, and in supporting and invigorating all the measures which may be adopted by the constituted authorities, for obtaining a speedy, a just, and an honourable peace.

In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed to these presents.

[SEAL.]

Done at the city of Washington, the nineteenth day of June, one thousand eight hundred and twelve, and of the Independence of the United States the thirty-sixth.

JAMES MADISON.

By the President.

JAMES MONROE, Sec. State.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JUNE 22, 1812.

I COMMUNICATE to Congress copies of a letter to the Secretary of State, from the charge d'affaires of the United States at London, and of a note to him from the British secretary for foreign affairs.

JAMES MADISON.

Mr. Russell to the Secretary of State. London, May 2, 1812.

SIR,—After closing the duplicate of my letter to you, of the 26th ult. I discovered the copy of the note of lord Castlereagh to me of the 21st, had been left out by mistake. I take the liberty of now handing it to you.

I am, &c.

JONA. RUSSELL.

Hon. James Monroe, &c. &c.

[ENCLOSED IN THE ABOVE.]

THE undersigned, his majesty's principal secretary of state for foreign affairs, is commanded by his royal highness the prince regent, to transmit to Mr. Russell, charge d'affaires of the government of the United States of America, the enclosed copy of a declaration accompanying an order in council which has been this day passed by his royal highness the prince regent in council.

The undersigned is commanded by the prince regent to request that Mr. Russell, in making this communication to his government, will represent this measure as conceived in the true spirit of conciliation, and with a due regard, on the part of his royal highness, to the honour and interests of the United States; and the undersigned ventures to express his confident hope, that this decisive proof of the amicable sentiments which animate the councils of his royal highness towards America, may accelerate the return of amity and mutual confidence between Great Britain and the United States.

The undersigned avails himself of this opportunity to repeat to Mr. Russell the assurances of his high consideration.

CASTLEREAGH.

Foreign Office, April 21, 1812.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE
SENATE. JULY 6, 1812.

I TRANSMIT to the Senate, copies and extracts of documents in the archives of the department of state, falling within the purview of their resolution of the 4th inst. on the subject of British impressments from American vessels. The information, though voluminous, might have been enlarged, with more time for research and preparation. In some instances it might, at the same time, have been abridged, but for the difficulty of separating the matter extraneous to the immediate object of the resolution.

JAMES MADISON.

No. 1.

Extract of a Letter from Thomas Jefferson, Esquire, Secretary of State, to Thomas Pinckney, Minister Plenipotentiary of the United States at London. Department of State, July 11, 1792.

"THE peculiar custom in England, of impressing seamen on every appearance of war, will occasionally expose our seamen to peculiar oppressions and vexations. It will be expedient that you take proper opportunities, in the mean time, of conferring with the minister on this subject, in order to form some arrangement for the protection of our seamen on those occasions. We entirely reject the mode which was the subject of a conversation between Mr. Morris and him, which was, that our seamen should always carry about them certificates of their citizenship: This is a condition never yet submitted to by any nation; one with which seamen would never have the precaution to comply: the casualties of their calling would expose them to the constant destruction or loss of this paper evidence, and thus the British government would be armed with *legal authority* to impress the whole of our seamen. The simplest rule will be, that the vessel being American,

shall be evidence that the seamen on board her are such. If they apprehend that our vessels might thus become asylums for the fugitives of their own nation from impress gangs, the number of men to be protected by a vessel may be limited by her tonnage, and one or two officers only be permitted to enter the vessel in order to examine the number on board; but no press gang should be allowed ever to go on board an American vessel, till after it shall be found that there are more than their stipulated number on board, nor till after the master shall have refused to deliver the supernumeraries (to be named by himself) to the press officer who has come on board for that purpose; and even then the American consul shall be called in. In order to urge a settlement of this point before a new occasion may arise, it may not be amiss to draw their attention to the peculiar irritation excited on the last occasion, and the difficulty of avoiding our making immediate reprisals on their seamen here. You will be so good as to communicate to me what shall pass on this subject, and it may be made an article of convention to be entered into either there or here."

Extract of a Letter from Thomas Jefferson, Esquire, when Secretary of State, to Thomas Pinckney, Minister Plenipotentiary of the United States at London. October 12, 1792.

"I ENCLOSE you a copy of a letter from Messrs. Blow and Melhaddo, merchants of Virginia, complaining of the taking away of their sailors, on the coast of Africa, by the commander of a British armed vessel. So many instances of this kind have happened, that it is quite necessary that their government should explain themselves on the subject, and be led to disavow and punish such conduct. I leave to your discretion to endeavour to obtain this satisfaction by such friendly discussions as may be most likely to produce the desired effect, and secure to our commerce that protection against British violence which it has never experienced from any other nation. No law forbids the seamen of any country to engage, in time of peace, on board a foreign vessel; no law authorizes such seaman

to break his contract, nor the armed vessels of his nation to interpose force for his rescue."

Extract of a Letter from Thomas Jefferson, Esquire, Secretary of State under the Presidency of General Washington, to Thomas Pinckney, Esquire, American Minister in London. Philadelphia, Nov. 6, 1792.

"I WROTE you last on the 12th of October, since which I have received yours of August 29, with the papers and pamphlets accompanying it. I enclose you now the copy of a letter from Mr. Pintard, our consul at Madeira, exhibiting another attempt at the practice on which I wrote you in my last, made by captain Hargood, of the British frigate Hyæna, to take seamen from on board an American vessel bound to the East Indies. It is unnecessary to develop to you the inconveniences of this conduct, and the impossibility of letting it go on. I hope you will be able to make the British ministry sensible of the necessity of punishing the past and preventing the future."

Extract from the Instructions given by Timothy Pickering, Esq. Secretary of State, to Rufus King, Esq. Department of State, June 8, 1796.

"AMONG the articles left unadjusted, one of the most interesting nature regards the impressing of American seamen. Mr. Pinckney was instructed on this head, in June, 1792. You will there see that the mode prescribed by the late act of Congress, of *certificating* our seamen, was pointedly reprobated. The long but fruitless attempts which have been made to protect them from British impresses, prove that the subject is in its nature difficult.

"The simplest rule, as remarked to Mr. Pinckney, would be, that the vessel being American, should be evidence that the seamen on board her are such. But it will be an important point gained, if, on the *high seas*, our flag can protect those, of whatever nation, who shall sail under it. And for this, humanity as well as interest powerfully plead. Merchant vessels carry no more hands

than their safety renders necessary. To withdraw any of them on the ocean, is to expose both lives and property to destruction. We have a right then to expect that the British government will make no difficulty in acceding to this very interesting provision. And the same motives should operate, with nearly equal force, to procure for us the like exemption in all the British colonies, but especially in the West Indies. In the latter, the consequence of an impress is the detention of the vessel: by the detention, the vessel is injured or destroyed by the worms, and the remnant of the crew exposed to the fatal diseases of the climate. Hence a longer detention ensues; the voyage becomes unprofitable, if not ruinous to the merchant, and humanity deplores the loss of many valuable lives. But there is another cogent reason for the absolute exemption from impresses in the British colonies. That the practice will be, as it always has been, attended with monstrous abuses: and the supreme power is so remote, the evils become irremediable before redress can even be sought for. To guard against abuses on the part of American citizens, every master of a vessel, on his arrival in any port of the British colonies, may be required to report his crew at the proper office. If afterwards any addition be made to them by *British subjects*, these may be taken away. In the ports of Great Britain and Ireland, the impress of *British subjects* found on board our vessels must doubtless be admitted. But this should be controlled by regulations to prevent insults and injuries, and to administer prompt relief where American citizens (which will assuredly happen) shall be mistaken for British subjects.

“There are three classes of men, concerning whom there can be no difficulty. 1. Native American citizens. 2. American citizens, wherever born, who were such at the definitive treaty of peace. 3. Foreigners, other than British subjects, sailing in American vessels, and whose persons ought to be sacred, as it respects the British, as those of native citizens. The fourth class consists of British born subjects, but who, or many of whom, may have become citizens subsequent to the treaty of peace, or who hereafter may be admitted to the rights of citizens. It is this class alone about which any pretence of right to im-

press can be made. With regard to these, it may be attempted to protect them, as well in time of war as of peace, in the following cases: First, when they shall have served in American vessels, publick or private, for the same term in which foreigners serving in British vessels would acquire the rights of British subjects, which is understood to be three years; or, secondly, if so much cannot be obtained, when those persons, originally British subjects, shall have resided five years in the United States, and been formally admitted to the rights of citizens according to our laws.

"It must often happen that sailors will lose their certificates: provision should therefore be made for the admission of other reasonable proof of their citizenship, such as their own oaths with those of the masters, mates, or other creditable witnesses. The rolls of the crews, or shipping papers, may also be authenticated by the collectors of the customs; and then they ought to be admitted as of equal validity with the individual certificates."

Mr. Pickering to Mr. King. Department of State, September 10, 1796.

I ENCLOSE a letter from Francis S. Taylor, deputy collector of Norfolk, relative to four impressed seamen. It appears to be written with candour, and merits attention. If, as the captain of the *Prevoyante* (Wemyss) says, the *dignity* of the British government will not permit an inquiry on board their ships for American seamen, their doom is fixed for the war: and thus the rights of an independent neutral nation are to be sacrificed to *British dignity*! Justice requires that such inquiries and examinations should be made, because the liberation of our seamen will otherwise be impossible. For the British government, then, to make professions of respect to the rights of our citizens, and willingness to release them, and yet deny the only means of ascertaining those rights, is an insulting tantalism. If such orders have been given to the British commanders, (and Mr. Liston's communication, in the conversation of which I sent you a copy in my letter of the 31st ult. countenances the idea,) the agency of colonel

Talbot and Mr. Trumbull will be fruitless, and the sooner we know it the better. But I would fain hope other things ; and if the British government have any regard to our rights, any respect for our nation, and place any value on our friendship, they will even facilitate to us the means of relieving our oppressed citizens. The subject of our impressed seamen makes a part of your instructions ; but the President now renews his desire that their relief may engage your special attention.

I am, sir, &c.

TIMOTHY PICKERING.

Rufus King, Esq. &c. &c.

Extract of a Letter from Mr. Pickering to Mr. King. Department of State, October 26, 1796.

"I THINK it is mentioned in your instructions that the British naval officers often impress Swedes, Danes, and other foreigners, from the vessels of the United States : They have even sometimes impressed Frenchmen. If there should be time to make out a copy of a protest lately received, it shall be enclosed, describing the impress of a Dane and a Portuguese. This surely is an abuse easy to correct. They cannot pretend an inability to distinguish these foreigners from their own subjects : and they may with as much reason rob American vessels of the property or merchandise of Swedes, Danes and Portuguese, as seize and detain in their service the subjects of those nations found on board American vessels. The President is extremely anxious to have this business of impresses placed on a reasonable footing."

Extract of a Letter from Mr. Pickering, Secretary of State, to Silas Talbot, Esq. Department of State, August 15, 1797.

"I WAS pleased with your success in obtaining relief for so many American seamen, as mentioned in your several letters : but your last, containing the orders of admiral Parker to his captains no longer to obey the writs of habeas corpus, gave me much uneasiness. Yesterday I gave

those letters to the British minister, Mr. Liston ; and wish he may do something to afford you a prospect of further success : but I fear, notwithstanding he is perfectly well disposed to administer relief, that his remonstrances or requests will have too little effect. I shall transmit copies of these letters to Mr. King, our minister in London, to lay before the British ministry. If any naval officers shall have committed such an outrage on any American seamen as to bring them to the gangway, as you mention, or to inflict any kind of punishment on them, especially for seeking opportunities to inform you of their situation, for the purpose of obtaining the just relief to which they are entitled, pray endeavour to get proper proofs of the fact, that I may make it the subject of a special representation to the British government."

Extract of a Letter to Rufus King, Esq. from the Secretary of State. Trenton, October 3, 1797.

" LORD Grenville's observations on the act of Congress for the relief and protection of American seamen, present difficulties which demand consideration at the ensuing session. But your reasoning, in your letter to his lordship of the 30th of last November, is conclusive against the British pretences to retain real American seamen who are married in their dominions, or who have voluntarily entered on board British vessels. It behooves the honour and faith of the British government to adhere to their principle on natural allegiance wholly, or to renounce it wholly : and an answer on this point would have become his lordship's candour.

" I consider colonel Talbot's agency in the West Indies to be no longer very important. The rigid conduct of admiral sir Hyde Parker, (who from the beginning has thrown obstacles in the way) leaves but little room to get our seamen released. The opposition of the officers in general, induced colonel Talbot to take out writs of habeas corpus at Jamaica, by which, directly, or in their consequences, he obtained the discharge of near fifty seamen ; but admiral Parker has some time past forbidden his officers to pay any obedience to such writs ; and

Colonel Talbot informs me that some of our seamen have been punished for attempting to send letters to him to inform of their situation. Mr. Liston has assured me that the British officers have orders not to impress any American seamen, and of course not to retain against their will any already impressed: but if they persist in obstructing every channel of information and proof of their citizenship, such orders are and will continue deceptive."

[The remaining communications accompanying the last message of the President, will be printed first in Vol. IX.]

END OF VOL. VIII.

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MAY 18 1927

